

09:34AM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LJV)

v.

September 23, 2024

JOSEPH BONGIOVANNI ,

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF DAVID CARPENTER
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys
Federal Centre, 138 Delaware Avenue
Buffalo, New York 14202
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.
80 East Spring Street
Williamsville, New York 14221
And

LAW OFFICES OF PARKER ROY MacKAY
BY: PARKER ROY MacKAY, ESQ.
3110 Delaware Avenue
Kenmore, New York 14217
And

OSBORN, REED & BURKE, LLP
BY: JOHN J. GILSENAN, ESQ.
120 Allens Creek Road
Rochester, New York 14618
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

1 | COURT DEPUTY CLERK: COLLEEN M. DEMMA

2 **COURT REPORTER:** **ANN MEISSNER SAWYER, FCRR, RPR, CRR**
3 Robert H. Jackson Federal Courthouse
4 2 Niagara Square
Buffalo, New York 14202
Ann_Sawyer@nywd.uscourts.gov

* * * * *

1

7

(Eugenol commenced at 12:00 p.m.)

9 (Turvy is present.)

THE COURT: The government may call its next witness.

11 **MS. CHALBECK:** Thank you, Your Honor. The government
12 calls David Carpenter.

13 And, Judge, just so I know, the Court wants to stop
14 around 12:30?

15 | THE COURT: Around then is fine.

16 MS. CHALBECK: If I get to a good place? Thank you.

17

18 **D A V I D C A R P E N T E R**, having been duly called and
19 sworn, testified as follows:

20 MS. CHALBECK: May I inquire, Judge?

THE COURT: You may.

22

23 DIRECT EXAMINATION BY MS. CHALBECK:

24 Q. Good afternoon, Mr. Carpenter.

25 A. Good afternoon.

12:10PM 1 Q. Please introduce yourself to the jury.

12:10PM 2 A. My name is David Carpenter. I'm an assistant special
12:10PM 3 agent in charge for the Treasury Inspector General for Tax
12:10PM 4 Administration, the acronym is TIGTA.

12:10PM 5 Q. Now, assistant special agent in charge, is that ASAC for
12:10PM 6 short?

12:10PM 7 A. Yes.

12:10PM 8 Q. I think that's an acronym that this jury has probably
12:10PM 9 heard before, so I might refer to you as that.

12:10PM 10 And then I think you said you work for the Treasury
12:10PM 11 Inspector General for Tax Administration?

12:11PM 12 A. Yes.

12:11PM 13 Q. And can I call that TIGTA for short?

12:11PM 14 A. Yes.

12:11PM 15 Q. Okay. What do you do as the ASAC for TIGTA?

12:11PM 16 A. I supervise seven special agents and one support staff.

12:11PM 17 Q. And what sort of -- is TIGTA -- does TIGTA investigate
12:11PM 18 criminal acts?

12:11PM 19 A. Yes.

12:11PM 20 Q. What sort of offenses does TIGTA investigate?

12:11PM 21 A. TIGTA investigates attempts to corrupt the tax
12:11PM 22 administration.

12:11PM 23 Q. Does that include, like, left it by taxpayers, threats --

12:11PM 24 A. Yes. We -- that's -- theft of refunds from taxpayers.

12:11PM 25 Threats to IRS employees from taxpayers, if they don't feel a

1 resolution is going favorably for them. Threats of harm that
2 taxpayers may say against themselves as a way of trying to
3 expedite handling of an issue they have. Another example, an
4 attempt to bribe an IRS employee for a more favorable outcome
5 to a despite.

6 Q. Okay. And how long have you been the ASAC for TIGTA?

7 A. About 90 days.

8 Q. And prior to being the ASAC, what were you?

9 A. I was a special agent.

10 Q. And were you, as a special agent, investigating all of
11 those kinds of offenses that you just described for this
12 jury?

13 A. Yes.

14 Q. Now, prior to joining TIGTA, where did you work?

15 A. I was a special agent with the Department of Justice
16 Office of Inspector General's office.

17 Q. I think that's another office or agency that this jury
18 has heard about. Can I call it OIG for short?

19 A. Yes.

20 Q. And you're going to know what I'm talking about?

21 A. Yes.

22 Q. Okay. Over what period of time did you work for OIG?

23 A. From May of 2018 to September of 2020.

24 Q. And what sorts of crimes or offenses does OIG
25 investigate?

12:13PM 1 A. We investigated allegations of misconduct by employees of
12:13PM 2 the Department of Justice regarding their employment there.

12:13PM 3 Q. And you said you investigate claims of misconduct by
12:13PM 4 employees within the Department of Justice. Does the
12:13PM 5 Department of Justice have a bunch of agencies kind of under
12:13PM 6 that broader umbrella?

12:13PM 7 A. Yes.

12:13PM 8 Q. Is the DEA one of the agencies kind of housed within the
12:13PM 9 greater Department of Justice?

12:13PM 10 A. Yes.

12:13PM 11 Q. And so if there was -- if there were allegations of
12:13PM 12 wrongdoing against a DEA employee, would OIG be one of the
12:13PM 13 agencies to investigate that?

12:13PM 14 A. Yes.

12:13PM 15 Q. Would the DEA really investigate that?

12:13PM 16 A. No.

12:13PM 17 Q. Why not?

12:13PM 18 A. The DEA would not be involved in investigating their own
12:13PM 19 so that a -- it avoids any conflict of interest that may
12:14PM 20 arise from the investigation as a way of walling off the DEA,
12:14PM 21 the Department of Justice is taking a step further to ensure
12:14PM 22 an unbiased investigation.

12:14PM 23 Q. Is that kind of why Offices of Inspector Generals were
12:14PM 24 created, to investigate in an unbiased and accurate way
12:14PM 25 claims that might trigger a conflict of interest?

12:14PM 1 A. Yes.

12:14PM 2 **MR. SINGER:** Objection.

12:14PM 3 **THE WITNESS:** Yes.

12:14PM 4 **MR. SINGER:** Sorry. Is everyone awake?

12:14PM 5 Objection to bolstering, Judge.

12:14PM 6 **THE COURT:** No. Overruled.

12:14PM 7 **BY MS. CHALBECK:**

12:14PM 8 Q. Okay. Moving right along, prior to working at OIG, where
12:14PM 9 did you work?

12:14PM 10 A. I was a special agent with the United States Secret
12:14PM 11 Service for about eight and a half years.

12:14PM 12 Q. And can you just generally and briefly describe what you
12:14PM 13 did in your capacity as a special agent with the Secret
12:14PM 14 Service?

12:15PM 15 A. The Secret Service has what they refer to as a dual
12:15PM 16 mission. Half their mission is investigating financial
12:15PM 17 fraud, and the other half is regarding the protection of
12:15PM 18 domestic protectees and foreign heads of state when they
12:15PM 19 visit America.

12:15PM 20 Q. And when you worked at the Secret Service, did you kind
12:15PM 21 of work towards both missions? Did you at one point
12:15PM 22 investigate financial fraud, and then at another point were
12:15PM 23 you on protective details?

12:15PM 24 A. Yes. For the first seven years or so of my time in
12:15PM 25 Secret Service I was doing both financial investigations as

12:15PM 1 well as protection assignments.

12:15PM 2 In my last year there, I was assigned full time to the
12:15PM 3 presidential protective detail exclusively doing protection.

12:15PM 4 Q. Okay. And prior to working for the Secret Service, where
12:15PM 5 were did you work?

12:15PM 6 A. I was a probation and parole officer for the State of
12:15PM 7 North Carolina.

12:15PM 8 Q. Now I want to bring you back to your time with OIG, the
12:16PM 9 Office of Inspector General within DOJ.

12:16PM 10 When did you -- withdrawn.

12:16PM 11 Around August of 2018, did you begin working on an
12:16PM 12 investigation into Joseph Bongiovanni?

12:16PM 13 A. I did.

12:16PM 14 Q. Do you see Mr. Bongiovanni present in the courtroom
12:16PM 15 today?

12:16PM 16 A. I do.

12:16PM 17 Q. Have you met him before?

12:16PM 18 A. I have.

12:16PM 19 Q. Could you please identify him by an article of clothing
12:16PM 20 that he's wearing?

12:16PM 21 A. Red tie -- or, glasses.

12:16PM 22 Q. Okay.

12:16PM 23 **MS. CHALBECK:** Judge, may the record reflect that the
12:16PM 24 witness has identified the defendant.

12:16PM 25 **THE COURT:** It does.

12:16PM 1 **MS. CHALBECK:** I was seeing two red ties there,
12:16PM 2 Your Honor.

12:16PM 3 **MR. SINGER:** Go Bills.

12:16PM 4 **BY MS. CHALBECK:**

12:16PM 5 Q. At the time that you began investigating the defendant,
12:16PM 6 what was his job?

12:16PM 7 A. He was a special agent with the DEA.

12:16PM 8 Q. And I should have asked earlier, when you started
12:16PM 9 investigating the defendant, were you the only investigator
12:17PM 10 on that case?

12:17PM 11 A. No.

12:17PM 12 Q. Was OIG the only agency involved in that case?

12:17PM 13 A. No.

12:17PM 14 Q. Who were the other -- what other agencies were involved
12:17PM 15 in investigating the defendant?

12:17PM 16 A. HSI was involved, with Special Agent Curtis Ryan.

12:17PM 17 And then later on, the FBI became involved.

12:17PM 18 Q. And did -- when you joined the investigation, were you
12:17PM 19 able to get connected with Special Agent Curtis Ryan at HSI?

12:17PM 20 A. Yes.

12:17PM 21 Q. Was the DEA part of the investigative team?

12:17PM 22 A. No.

12:17PM 23 Q. And why not?

12:17PM 24 A. Again, there were -- they were walled off from the
12:17PM 25 investigation to prevent any conflicts of interest that may

12:17PM 1 have been there, to provide a more unbiased investigation.

12:17PM 2 Q. And in addition to that, were some DEA employees viewed
12:17PM 3 by the investigative team as potential subjects or witnesses?

12:17PM 4 A. Yes.

12:17PM 5 Q. Just in general terms, can you explain the division of
12:18PM 6 labor between you and OIG on the one hand, and Curtis Ryan
12:18PM 7 and Homeland Security on the other?

12:18PM 8 A. We worked together on this investigation. However, we
12:18PM 9 were -- we were separate in our attentions.

12:18PM 10 Curtis Ryan was focusing on a -- a drug-trafficking
12:18PM 11 organization involving Ron Serio.

12:18PM 12 And I was focusing my investigation into allegations made
12:18PM 13 against Joseph Bongiovanni.

12:18PM 14 Q. So though you had a focus on -- withdrawn.

12:18PM 15 Though Curtis was -- Special Agent Ryan was focused on
12:18PM 16 maybe the Ron Serio leg of the investigation into the
12:18PM 17 defendant, did he investigate all the other claims involving
12:19PM 18 the defendant, too?

12:19PM 19 A. I'm not sure of the --

12:19PM 20 Q. I'll rephrase my question.

12:19PM 21 I think you just testified, Mr. Carpenter, that your
12:19PM 22 focus was on certain allegations into the defendant?

12:19PM 23 A. Yes.

12:19PM 24 Q. Were those allegations his relationship with Peter
12:19PM 25 Gerace, and his alleged use of racial slurs in reference to

12:19PM 1 DEA targets?

12:19PM 2 A. Yes.

12:19PM 3 Q. Okay. And then I think you testified that Special Agent
12:19PM 4 Curtis Ryan and his team at Homeland Security were focused on
12:19PM 5 the Ron Serio investigation as it relates to this defendant;
12:19PM 6 is that correct?

12:19PM 7 A. Yes.

12:19PM 8 Q. Okay. Now, though you were focused on the defendant's
12:19PM 9 relationship with Peter Gerace, and his use of racial slurs,
12:19PM 10 his alleged use of racial slurs, is it fair to say that
12:19PM 11 Curtis Ryan was not so limited? His investigation
12:19PM 12 encompassed all of the allegations?

12:19PM 13 A. Correct.

12:19PM 14 Q. Okay. But yours, by contrast, was focused just on his
12:19PM 15 relationship with Peter Gerace, that being the defendant's,
12:20PM 16 and the alleged use of racial slurs?

12:20PM 17 A. Correct.

12:20PM 18 Q. Okay. You said that you became involved in the
12:20PM 19 investigation into the defendant around August of 2018. I
12:20PM 20 want to speed up to -- and fast forward to March 29th of
12:20PM 21 2019.

12:20PM 22 Were you still working on the investigation on that day?

12:20PM 23 A. I was.

12:20PM 24 Q. What was just the general status of the investigation in
12:20PM 25 March of 2019?

12:20PM 1 A. The investigation was active and ongoing. They were
12:20PM 2 still collecting evidence and vetting information.

12:20PM 3 Q. And was it still focused on those three categories that I
12:20PM 4 outlined earlier: The Serio leg, the Gerace leg, and the
12:20PM 5 racial slurs leg?

12:20PM 6 A. Yes.

12:20PM 7 Q. Now prior to March of 2019, had you ever spoken with this
12:20PM 8 defendant about the investigation?

12:21PM 9 A. No.

12:21PM 10 Q. But in March of 2019, did you make contact with him?

12:21PM 11 A. Yes.

12:21PM 12 Q. What did you make contact with him for?

12:21PM 13 A. I called him on the phone, and I asked him if he would be
12:21PM 14 willing to meet with me for a voluntary interview regarding
12:21PM 15 allegations of him using racial slurs to a fellow DEA agent,
12:21PM 16 and allegations of his relationship with Peter Gerace and
12:21PM 17 providing law enforcement information to him.

12:21PM 18 Q. Now we'll get into that in a minute, but just more

12:21PM 19 generally, when you're doing an investigation, can it be
12:21PM 20 valuable as an investigator to speak to the person you're
12:21PM 21 investigating?

12:21PM 22 A. Yes.

12:21PM 23 Q. Why is that?

12:21PM 24 A. It allows us the opportunity to hear directly from them
12:21PM 25 their side of the story. It allows them to explain their

12:21PM 1 perspective. It allows them to provide a context to their
12:21PM 2 actions. It allows them to explain any intent that was
12:21PM 3 behind any -- any -- any activities that they did.

12:22PM 4 Q. In that context, is it important for the person being
12:22PM 5 interviewed to tell the truth?

12:22PM 6 A. Yes.

12:22PM 7 Q. Why is it important for your investigation for the person
12:22PM 8 you're interviewing to tell the truth?

12:22PM 9 A. As we're investigating his activities, failure to tell
12:22PM 10 the truth would provide us with falls leads, false
12:22PM 11 information, it could result in an unfair, unbiased, and
12:22PM 12 incomplete investigation.

12:22PM 13 Q. What is the ultimate goal, you know, when you're
12:22PM 14 investigating?

12:22PM 15 A. Our ultimate goal is to find the truth, whatever it is.

12:22PM 16 Q. So if someone is dishonest, it frustrates that goal?

12:22PM 17 A. Yes.

12:22PM 18 Q. So did there come a time in March of 2019, I think you
12:22PM 19 said that you invited the defendant for a voluntary
12:22PM 20 interview?

12:22PM 21 A. Yes.

12:23PM 22 Q. How did the defendant respond?

12:23PM 23 A. He agreed to meet with me.

12:23PM 24 Q. And did you tell him over the phone that it was a
12:23PM 25 voluntary interview?

12:23PM 1 A. I did.

12:23PM 2 Q. Did you explain what that meant?

12:23PM 3 A. Yes.

12:23PM 4 Q. Tell the jury what you said.

12:23PM 5 A. I explained to them that this was a voluntary interview.

12:23PM 6 That he was free not to participate. That there was no

12:23PM 7 punishment or consequence to his declining of this interview.

12:23PM 8 Q. And you did also over the phone notify him kind of the

12:23PM 9 general topics that you wanted to discuss with him?

12:23PM 10 A. Yes. I told him what -- I told him the two topics that I

12:23PM 11 wanted to discuss, which were the allegations made that he

12:23PM 12 used racial slurs to a fellow DEA agent, as well as his

12:23PM 13 relationship with Peter Gerace and providing law-enforcement

12:23PM 14 sensitive information.

12:23PM 15 Q. Why did you tell the defendant the topics that you wanted

12:23PM 16 to discuss with him in this interview?

12:23PM 17 A. I thought it was important so he would know up front what

12:23PM 18 the interview was all about so he could make an informed

12:23PM 19 decision on whether he wanted to participate or not so that

12:24PM 20 we could start off the interview on a trusting level as a way

12:24PM 21 of developing a rapport.

12:24PM 22 Q. Okay. And after you said this, but did he agree to be

12:24PM 23 interviewed?

12:24PM 24 A. Yes.

12:24PM 25 Q. When was that interview ultimately scheduled?

12:24PM 1 A. March 29th of 2019.

12:24PM 2 Q. Where was it scheduled to take place?

12:24PM 3 A. The U.S. Attorney's Office here in Buffalo.

12:24PM 4 Q. Why did you schedule the interview to take place at the

12:24PM 5 U.S. Attorney's Office?

12:24PM 6 A. U.S. Attorney's Office is a spot where -- I was trying to

12:24PM 7 create an environment for him that would be conducive to an

12:24PM 8 honest discussion. The U.S. Attorney's Office conference

12:24PM 9 rooms there tend to be pretty comfortable, it's a spot that

12:24PM 10 he was familiar with, that he should have felt comfortable

12:24PM 11 there. So that's why I -- why I used it.

12:24PM 12 Q. Did you understand that the defendant, as a DEA special

12:24PM 13 agent, had walked the halls of the U.S. Attorney's Office

12:24PM 14 many times before?

12:24PM 15 A. Yes.

12:24PM 16 Q. And when you began the interview, did you reiterate to

12:25PM 17 him that it was voluntary?

12:25PM 18 A. I did.

12:25PM 19 Q. Did he say anything in response to that reiteration?

12:25PM 20 A. He said that as a 20-year plus law enforcement officer,

12:25PM 21 he knew his rights.

12:25PM 22 Q. And did you -- I think you testified earlier,

12:25PM 23 Mr. Carpenter, that you told the defendant over the phone

12:25PM 24 what the topics would be.

12:25PM 25 Did you reiterate those topics again in person when the

12:25PM 1 defendant arrived?

12:25PM 2 A. I did.

12:25PM 3 Q. You told him it was -- the interview was gonna be focused
12:25PM 4 on his relationship with Peter Gerace?

12:25PM 5 A. Yes.

12:25PM 6 Q. And his alleged use of racial slurs referring to DEA
12:25PM 7 targets?

12:25PM 8 A. Yes.

12:25PM 9 Q. Why did you not want to talk with him about the Ron Serio
12:25PM 10 leg of the investigation?

12:25PM 11 A. As I was not a part of that investigation, it would have
12:26PM 12 been -- it was not my place to interview him regarding that.

12:26PM 13 Q. Did -- withdrawn.

12:26PM 14 Was it your understanding that topics or matters related
12:26PM 15 to the Ron Serio investigation were to be avoided in order to
12:26PM 16 not compromise that investigation?

12:26PM 17 A. Yes.

12:26PM 18 Q. And in other words, if you had said, hey,

12:26PM 19 Mr. Bongiovanni, I want to talk with you about Ron Serio,
12:26PM 20 would that have tipped this defendant off that you were
12:26PM 21 investigating or someone in DOJ was investigating Ron Serio?

12:26PM 22 A. Yes.

12:26PM 23 Q. And I think you said earlier that when you spoke to the
12:27PM 24 defendant on the phone and told him about the topics you did
12:27PM 25 want to cover, it was to build a rapport with him; is that

12:27PM 1 the same reason why you reiterated the topics when the
12:27PM 2 interview began?

12:27PM 3 A. Yes.

12:27PM 4 Q. Did you want this defendant to be comfortable speaking to
12:27PM 5 you?

12:27PM 6 A. Yes.

12:27PM 7 Q. Did you want to get his side of the story?

12:27PM 8 A. Yes.

12:27PM 9 Q. Now, before we get into what the defendant told you about
12:27PM 10 his relationship with Peter Gerace and the alleged use of
12:27PM 11 racial slurs, I want to ask you a couple of questions about
12:27PM 12 the Ron Serio investigation and some names that you dropped
12:27PM 13 during your interview with the defendant; is that all right?

12:27PM 14 A. Yes.

12:27PM 15 Q. All right. To be clear, were you part of the Ron Serio
12:28PM 16 investigation?

12:28PM 17 A. No.

12:28PM 18 Q. To the extent that you assisted in that investigation at
12:28PM 19 all, was it to deliver documents to Special Agent Ryan?

12:28PM 20 A. I was a conduit of information, yes.

12:28PM 21 Q. Was the Ron Serio investigation top secret for a lack of
12:28PM 22 a better way of putting it, and not a lot of people were
12:28PM 23 supposed to know about it?

12:28PM 24 A. Correct.

12:28PM 25 Q. And you were with OIG, and that was not OIG's focus; is

12:28PM 1 that fair?

12:28PM 2 A. Yes.

12:28PM 3 Q. Nevertheless, were you in communication with Special
12:28PM 4 Agent Ryan when this interview was coming down the pipeline?

12:28PM 5 A. Yes.

12:28PM 6 Q. Did Special Agent Ryan give you a list of seven names to
12:28PM 7 bring up in the interview?

12:28PM 8 A. He did.

12:28PM 9 Q. What were those names?

12:29PM 10 A. The first one I only had a single name for, and that was
12:29PM 11 Dwyer. There was T.S. There was Michael Clark. There was
12:29PM 12 Charles Newkirk. There was Jay Neil. There was -- last
12:29PM 13 name -- first name, single name only, was Krule.

12:29PM 14 Excuse me one second.

12:29PM 15 Q. Was there someone with the last name of Ziccari?

12:29PM 16 A. Yes, Ziccari.

12:29PM 17 Q. And were those the seven people, the seven names that
12:29PM 18 Special Agent Ryan asked you to bring up?

12:29PM 19 A. Yes.

12:29PM 20 Q. When you brought up those names, did you say, hey,
12:30PM 21 Mr. Bongiovanni, I want to talk with you about some people
12:30PM 22 connected to the Ron Serio investigation?

12:30PM 23 A. No.

12:30PM 24 Q. That didn't happen?

12:30PM 25 A. No.

12:30PM 1 Q. At the time that you were interviewing this defendant,
12:30PM 2 did you know if any of those people even related to the Ron
12:30PM 3 Serio investigation?

12:30PM 4 A. I -- at the time, I don't believe so.

12:30PM 5 Q. At the time that you brought them up --

12:30PM 6 A. I believe -- I believe one was, yes. At the time -- I
12:30PM 7 apologize.

12:30PM 8 At the time I brought them up, I don't believe -- I don't
12:30PM 9 know what their relationship to the Serio investigation was.

12:30PM 10 Q. Did you find out later on that one of those people had a
12:30PM 11 connection --

12:30PM 12 A. Yes.

12:30PM 13 Q. -- to the Ron Serio investigation?

12:30PM 14 A. I did.

12:30PM 15 Q. Which person?

12:30PM 16 A. T.S.

12:30PM 17 Q. And did you sandwich T.S.'s name in between six other
12:31PM 18 names?

12:31PM 19 A. Yes.

12:31PM 20 Q. Did you know the purpose behind asking the defendant
12:31PM 21 about those seven people?

12:31PM 22 A. I did not.

12:31PM 23 Q. Nevertheless, Mr. Carpenter, do you remember testifying
12:31PM 24 in a prior proceeding?

12:31PM 25 A. Yes.

12:31PM 1 Q. Do you recall being asked questions related to the same
12:31PM 2 questions that I just asked you?

12:31PM 3 A. Yes.

12:31PM 4 Q. Specifically, and I'll direct counsel's attention to
12:31PM 5 Government Exhibit --

12:31PM 6 **MR. SINGER:** Objection. Improper impeachment judge.

12:31PM 7 **THE COURT:** I don't know that this is impeachment.

12:31PM 8 **MS. CHALBECK:** Can we approach?

12:31PM 9 **THE COURT:** Let's take our break now for the
12:31PM 10 afternoon. I have a couple of matters that I need to do over
12:31PM 11 the lunch hour, so we're going to take a little bit longer
12:32PM 12 than usual.

12:32PM 13 Please remember my instructions about not
12:32PM 14 communicating about the case with anyone, including each
12:32PM 15 other. Don't use tools of technology to learn anything about
12:32PM 16 the case or to communicate about the case.

12:32PM 17 Don't read, or watch, or listen to any news coverage
12:32PM 18 of the case, if there is any, while the case is in progress.
12:32PM 19 And don't make up your mind until you start deliberating.

12:32PM 20 We'll see you back here at quarter to 2. You may
12:32PM 21 have to wait a little bit, but let's start with quarter to 2.
12:32PM 22 Okay? Thanks.

12:32PM 23 (Jury excused at 12:32 p.m.)

12:32PM 24 **MS. CHALBECK:** Your Honor, could we excuse the
12:33PM 25 witness?

12:33PM 1 **THE COURT:** Yeah, but we're not going to argue it
12:33PM 2 now.

12:33PM 3 **MS. CHALBECK:** Okay.

12:33PM 4 **THE COURT:** We'll do it when we come back. Anything
12:33PM 5 other than that that you want to do right now?

12:33PM 6 **MS. CHALBECK:** No, Your Honor.

12:33PM 7 **THE COURT:** Anything else?

12:33PM 8 **MR. SINGER:** I want to warn the witness.

12:33PM 9 **THE COURT:** Yeah. So you're not to talk to anybody
12:33PM 10 about your testimony during the break, okay?

12:33PM 11 **THE WITNESS:** Yes, Your Honor.

12:33PM 12 **THE COURT:** Okay. And we'll see you then.

12:33PM 13 (Off the record at 12:33 p.m.)

01:56PM 14 (Back on the record at 1:56 p.m.)

01:56PM 15 (Jury not present.)

01:56PM 16 **THE CLERK:** All rise.

01:56PM 17 **THE COURT:** Please be seated.

01:56PM 18 **THE CLERK:** We are back on the record for the

01:56PM 19 continuation of the jury trial in case number 19-cr-227,

01:56PM 20 United States of America versus Joseph Bongiovanni.

01:56PM 21 All counsel and parties are present.

01:56PM 22 **THE COURT:** Okay. So let's argue the objection.

01:56PM 23 Where are we going with this?

01:56PM 24 **MS. CHALBECK:** Judge, as the Court knows under
01:56PM 25 Rule 607, any party, including the party that's calling the

01:56PM 1 witness, may impeach that witness including by bringing up
01:56PM 2 prior inconsistent statements.

01:56PM 3 I think if Mr. Singer has an objection to my bringing
01:56PM 4 in the prior testimony, like, word for word and introducing
01:56PM 5 the transcript, I can probably circumvent that issue by asking
01:56PM 6 a different question. Specifically, I can just ask about did
01:56PM 7 you provide erroneous answers during a prior proceeding when
01:56PM 8 Mr. Singer cross-examined you?

01:56PM 9 **MR. SINGER:** I guess, I mean, you use impeachment for
01:57PM 10 inconsistency when the person is testifying not at a previous
01:57PM 11 hearing, but at the hearing here.

01:57PM 12 So what is the inconsistency with the testimony
01:57PM 13 today? That's why I lodged the objection, because it wasn't
01:57PM 14 really clear to me what we're impeaching.

01:57PM 15 **MS. CHALBECK:** Okay. So I'm reading off Government
01:57PM 16 Exhibit 3595.

01:57PM 17 **THE COURT:** What did he say today first that's
01:57PM 18 inconsistent?

01:57PM 19 **MS. CHALBECK:** So today he said that the names that
01:57PM 20 he dropped during the March 29th, 2019 interview with
01:57PM 21 Mr. Bongiovanni that he did not have any awareness at the time
01:57PM 22 that those names were related to the Ron Serio investigation.

01:57PM 23 **THE COURT:** Okay.

01:57PM 24 **MS. CHALBECK:** He similarly I think testified on
01:57PM 25 direct that he did not know the purpose of him asking those

01:57PM 1 questions.

01:57PM 2 In the prior proceeding, which was March 21st of this
01:57PM 3 year, that's 3595CW, on cross-examination Mr. Singer asked,
01:58PM 4 quote:

01:58PM 5 "And another person you had brought up was a person
01:58PM 6 by the name of Charles Newkirk.

01:58PM 7 "Answer: Yes.

01:58PM 8 "And those are things, that was another person that
01:58PM 9 was associated with the Ron Serio investigation, correct?

01:58PM 10 "Answer: I believe so, yes.

01:58PM 11 And then as you go further on in the
01:58PM 12 cross-examination, he answers yes to the question.

01:58PM 13 And the purpose of you bringing up those names was to
01:58PM 14 further the Ron Serio investigation, which is directly
01:58PM 15 inconsistent his testimony today.

01:58PM 16 **THE COURT:** Well, no, I'm not so sure it is.

01:58PM 17 He -- if you show -- okay. Hang on. Let me go look
01:58PM 18 at what he testified to today.

01:58PM 19 Did you know the purpose behind asking the defendant
02:01PM 20 about those seven people?

02:01PM 21 I did not.

02:01PM 22 Is that the statement you're going to impeach him on?

02:01PM 23 **MS. CHALBECK:** Well, there are three statements.

02:01PM 24 One is: Was Charles Newkirk someone associated with
02:01PM 25 the Ron Serio investigation?

02:01PM 1 On cross last time, I'm going -- there are going to
02:01PM 2 be three statements total, that's one of the statements,
02:01PM 3 Your Honor, there are two others.

02:01PM 4 **THE COURT:** What are the others?

02:01PM 5 **MS. CHALBECK:** The second one is: What was the
02:01PM 6 purpose -- or, I'm sorry. The second one was: Was Charles
02:01PM 7 Newkirk someone who was associated with the Ron Serio
02:01PM 8 investigation?

02:01PM 9 **THE COURT:** You asked him that today.

02:01PM 10 **MS. CHALBECK:** If I haven't asked him yet, then I
02:01PM 11 will ask him. But in the last proceeding, he testified yes.

02:01PM 12 I anticipate that the -- the witness will answer no,
02:01PM 13 I didn't know Charles Newkirk was associated with the Ron
02:01PM 14 Serio investigation.

02:01PM 15 **THE COURT:** And tell me what he said at the last
02:01PM 16 proceeding.

02:01PM 17 **MS. CHALBECK:** Question: And another person you
02:01PM 18 brought up was a person by the name of Charles Newkirk.

02:01PM 19 Answer: Yes.

02:01PM 20 That was another person that was associated with the
02:01PM 21 Ron Serio investigation, correct?

02:01PM 22 Answer: I believe so, yes.

02:01PM 23 **THE COURT:** That doesn't say he knew about it at the
02:01PM 24 time.

02:01PM 25 **MS. CHALBECK:** Well, I also anticipate that witness

02:01PM 1 will say that he doesn't know if Charles Newkirk was
02:01PM 2 associated with the Ron Serio investigation period.

02:01PM 3 **THE COURT:** Well if he says that, then you can
02:01PM 4 impeach him with that, but you can't impeach him with that yet
02:01PM 5 because you haven't shown me something that's inconsistent
02:01PM 6 with what was he said. He said today that he didn't know at
02:01PM 7 the time. So if you've got something to say, yeah, I knew at
02:01PM 8 the time that what I was asking about were people involved in
02:01PM 9 the Serio drug-trafficking organization, that's good
02:01PM 10 impeachment.

02:01PM 11 **MS. CHALBECK:** And I was -- I'm sorry.

02:01PM 12 **THE COURT:** That's okay. But it has to be
02:01PM 13 inconsistent with what he testified to today, and I'm not
02:01PM 14 hearing any inconsistency.

02:01PM 15 **MS. CHALBECK:** I think I can -- I can correct that by
02:01PM 16 modifying the question slightly.

02:01PM 17 **MR. SINGER:** Yeah, I mean, if there's an
02:01PM 18 inconsistency, I'm not going to object to it. I didn't feel
02:01PM 19 like there was basis on that point and time.

02:01PM 20 **THE COURT:** I didn't hear it, that question is going
02:01PM 21 to be sustained. But you can use to impeach. But it's got to
02:01PM 22 be inconsistent before we do that.

02:01PM 23 **MS. CHALBECK:** Okay.

02:01PM 24 **THE COURT:** Anything else before we resume?

02:01PM 25 **MS. CHALBECK:** Not from the government.

02:01PM 1 **MR. SINGER:** No, Judge.

02:01PM 2 **THE COURT:** Okay.

02:01PM 3 **MS. CHALBECK:** Mr. Carpenter, you can stand up there.

02:02PM 4 (Jury and witness seated at 2:02 p.m.)

02:02PM 5 **THE COURT:** Okay. Welcome back, everybody.

02:02PM 6 A couple things before we resume. First of all, last

02:03PM 7 week, one of the jurors asked a question, and I responded to

02:03PM 8 that by saying you can't ask questions, and I may have done

02:03PM 9 that harshly because I understand that the juror was concerned

02:03PM 10 about that afterwards, and I certainly did not mean to be

02:03PM 11 harsh.

02:03PM 12 You folks don't know the rules, and I'm here to tell

02:03PM 13 you about the rules. But please don't be concerned about

02:03PM 14 anything like that. Okay? I will let you know if there's

02:03PM 15 something that you want that you can't have.

02:03PM 16 You folks can't ask questions of the witnesses.

02:03PM 17 That's just not allowed in the system. The lawyers do that.

02:03PM 18 But you have no way of knowing that.

02:03PM 19 So please don't be upset with yourselves if do you

02:03PM 20 something that you didn't know about.

02:03PM 21 And then number 2, when I noticed number 4 on the

02:03PM 22 shirt of juror number -- 1, 2, 3, 4, 5 -- 6, it reminded me

02:03PM 23 that over the weekend that I was babysitting my two-year old

02:03PM 24 granddaughter, and she had a little toy, she had several

02:03PM 25 little Bills toys, one of them had number 4 on it.

02:04PM 1 And I said to her, is that your Buffalo Bills toy?

02:04PM 2 And she said no, Papa, that's Cook.

02:04PM 3 So, even the little ones know about this now. You
02:04PM 4 know, like, Papa's an idiot. Don't you know that's James
02:04PM 5 Cook?

02:04PM 6 Okay. I remind the witness he's still under oath.

02:04PM 7 And you may continue.

02:04PM 8 **MS. CHALBECK:** Thank you, Your Honor.

02:04PM 9 **BY MS. CHALBECK:**

02:04PM 10 Q. Mr. Carpenter, I think before the break, we were talking
02:04PM 11 about names that you had dropped during your March 29th, 2019
02:04PM 12 interview with this defendant; does that sound, right?

02:04PM 13 A. Yes.

02:04PM 14 Q. And those names were provided -- there were seven names,
02:04PM 15 and those names were provided to you by Special Agent Curtis
02:04PM 16 Ryan; is that correct?

02:04PM 17 A. Correct.

02:04PM 18 Q. And I think you testified earlier, and just to provide
02:04PM 19 some further context, Special Agent Ryan, he was
02:04PM 20 investigating the reports that this defendant was protecting
02:04PM 21 the Ron Serio drug-trafficking organization; is that right?

02:05PM 22 A. Yes.

02:05PM 23 Q. Okay. And then in addition to that, he was investigating
02:05PM 24 the defendant's conduct as it related to Peter Gerace, and as
02:05PM 25 it related to racial slurs said in -- in respect to DEA

02:05PM 1 targets; is that correct?

02:05PM 2 A. Yes.

02:05PM 3 Q. Okay. With respect to those names, I think you mentioned
02:05PM 4 that Charles Newkirk was someone who you had mentioned --

02:05PM 5 A. Yes.

02:05PM 6 Q. -- is that right?

02:05PM 7 Do you know if that person had any association with the
02:05PM 8 Ron Serio drug-trafficking organization?

02:05PM 9 A. I do not.

02:05PM 10 Q. Do you know -- did you know at the time that you asked
02:05PM 11 whether any of those people, those seven names, had a
02:06PM 12 connection to the Ron Serio drug-trafficking organization?

02:06PM 13 A. I did not.

02:06PM 14 Q. As you sit here today, do you know if any of those people
02:06PM 15 have a connection to the Ron Serio drug-trafficking
02:06PM 16 organization?

02:06PM 17 A. I know one, T.S..

02:06PM 18 Q. Okay. Do you know the purpose behind your asking about
02:06PM 19 those names?

02:06PM 20 A. No.

02:06PM 21 Q. You don't know if the purpose was to further an
02:06PM 22 investigation into this defendant's protection of the Ron
02:06PM 23 Serio drug-trafficking organization, or something else; is
02:06PM 24 that correct?

02:06PM 25 **MR. SINGER:** Objection. Speculation. Witness said

02:06PM 1 he doesn't know.

02:06PM 2 **THE COURT:** Say it again?

02:06PM 3 **MR. SINGER:** Speculation, lack of personal knowledge.

02:06PM 4 **THE COURT:** Well, no, she's asking whether he knows
02:06PM 5 about it. So how can that be?

02:06PM 6 **MR. SINGER:** Just based on his last answer, Judge.

02:06PM 7 **THE COURT:** No, overruled.

02:06PM 8 **BY MS. CHALBECK:**

02:06PM 9 Q. You may answer.

02:06PM 10 A. Can you repeat the question?

02:06PM 11 **MS. CHALBECK:** Ann, can you -- Ms. Sawyer, can you
02:06PM 12 read back the last question?

02:06PM 13 (The above-requested question was then read by the
02:06PM 14 reporter.)

02:07PM 15 **THE WITNESS:** That is correct.

02:07PM 16 **BY MS. CHALBECK:**

02:07PM 17 Q. Mr. Carpenter, nevertheless, do you recall being asked
02:07PM 18 kind of those same series of questions in a prior proceeding
02:07PM 19 earlier this year on cross-examination by Mr. Singer?

02:07PM 20 A. Yes.

02:07PM 21 Q. Did you give erroneous answers to those questions?

02:07PM 22 A. Yes.

02:07PM 23 Q. Just tell the jury your errors.

02:07PM 24 A. During prior testimony, I stated that that information
02:07PM 25 was in furtherance of the Ron Serio investigation when, in

02:08PM 1 fact, I had no direct knowledge of the purpose of those
02:08PM 2 names. Mr. Ryan never told me the purpose of those names. I
02:08PM 3 leapt to a conclusion which was unfounded based on
02:08PM 4 assumptions that I made, which turned out to be -- which was
02:08PM 5 baseless on my part and careless on my part.

02:08PM 6 Q. Was that your first time testifying in a federal criminal
02:08PM 7 trial?

02:08PM 8 A. It was.

02:08PM 9 Q. Is it a nerve-racking experience being up here and being
02:08PM 10 asked questions, having everything you say, you know, being
02:08PM 11 taken down?

02:08PM 12 A. I find it nerve-racking, yes.

02:08PM 13 Q. Okay. Were you in a rhythm during the prior proceeding
02:08PM 14 on cross-examination where Mr. Singer was asking you a bunch
02:08PM 15 of question where the answer was yes and correct and --

02:08PM 16 **MR. SINGER:** Objection.

02:08PM 17 **THE COURT:** Sustained.

02:08PM 18 **BY MS. CHALBECK:**

02:08PM 19 Q. Are you telling this jury the truth to the best of your
02:08PM 20 ability?

02:08PM 21 A. Yes.

02:08PM 22 Q. Other than T.S., as you sit here today, do any of those
02:09PM 23 names have a connection to the Ron Serio drug-trafficking
02:09PM 24 organization?

02:09PM 25 A. I do not know.

02:09PM 1 Q. And is it your testimony today, Mr. Carpenter, that you
02:09PM 2 did not bring up the Ron Serio investigation to this
02:09PM 3 defendant when you met with him on March 29th, 2019?

02:09PM 4 **MR. SINGER:** Objection, asked and answered.

02:09PM 5 **THE COURT:** Overruled.

02:09PM 6 **BY MS. CHALBECK:**

02:09PM 7 Q. You may answer.

02:09PM 8 A. I did not mention the name Ron Serio during my interview
02:09PM 9 with Mr. Bongiovanni.

02:09PM 10 Q. Okay. I want to talk with you about the topics that you
02:09PM 11 did discuss with this defendant, Peter Gerace and the racial
02:09PM 12 slurs.

02:09PM 13 Before you started asking those questions, did you ask
02:10PM 14 the defendant to describe his background to you?

02:10PM 15 A. I did.

02:10PM 16 Q. What did he say about his own professional experience?

02:10PM 17 A. He described his professional law enforcement experience
02:10PM 18 as starting off in 1995 when he was hired by the Erie County
02:10PM 19 Sheriff's Department.

02:10PM 20 He went on to complete -- he left the Erie County
02:10PM 21 Sheriff's Department, and went on to the DEA where he
02:10PM 22 graduated from the academy in 1998. His first office was in
02:10PM 23 Orlando, Florida, where he stayed for about three years. And
02:10PM 24 then he transferred back to Buffalo until his retirement in
02:10PM 25 2019.

02:10PM 1 Q. And was it after you kind of got his professional
02:10PM 2 background that you then started asking him questions about
02:10PM 3 Peter Gerace?

02:10PM 4 A. I did.

02:10PM 5 Q. Why were you interested in learning about the defendant's
02:10PM 6 story, or telling of his relationship with Peter Gerace?

02:10PM 7 A. I wanted to know and hear from him directly about his

02:10PM 8 relationship with Peter Gerace. What type of, if any,

02:11PM 9 relationship they had. What, if any, contact/communications

02:11PM 10 they had. Learn more about them and the relationship to see

02:11PM 11 if there was opportunity to provide law-enforcement sensitive

02:11PM 12 information to Gerace.

02:11PM 13 Q. And so to that end, was it important for you to kind of

02:11PM 14 learn the kinds of communications and the frequency of

02:11PM 15 communication that this defendant had with Peter Gerace?

02:11PM 16 A. Yes.

02:11PM 17 Q. Did that go to direct -- did that directly go to your

02:11PM 18 concern about whether the defendant had an opportunity to

02:11PM 19 share law-enforcement sensitive information with Mr. Gerace?

02:11PM 20 A. Yes.

02:11PM 21 Q. How did he describe his relationship?

02:11PM 22 A. He stated that as growing up, that the Bongiovanni family
02:11PM 23 and the Gerace family were family friends.

02:11PM 24 That in his late teens, early 20s, the defendant was a
02:12PM 25 bartender, and he taught Mr. Gerace how to bartend.

02:12PM 1 That they fell out of contact when he moved to Orlando
02:12PM 2 with the DEA.

02:12PM 3 That when he came back to Buffalo, he saw Mr. Gerace and
02:12PM 4 they became reacquainted.

02:12PM 5 He went on to say that Gerace is somebody that he likes
02:12PM 6 to -- tries to keep at an arm's length. That -- he described
02:12PM 7 Mr. Gerace as a police groupie.

02:12PM 8 He stated that Gerace is someone that he has denied ever
02:12PM 9 initiating contact with, and that he denied ever witnessing
02:12PM 10 Mr. Gerace consume narcotics.

02:12PM 11 Q. Did he also deny ever going to Mr. Gerace's home?

02:12PM 12 A. He did.

02:12PM 13 Q. And did he say something about a desire to investigate
02:12PM 14 Pharaoh's?

02:12PM 15 A. He stated that -- he stated that he liked -- wanted to
02:13PM 16 keep Mr. Gerace on a short leash with the hope of obtaining
02:13PM 17 information to investigate Pharaoh's.

02:13PM 18 Q. "Short leash," Mr. Carpenter, is that like an exact quote
02:13PM 19 of what defendant said?

02:13PM 20 A. Yes.

02:13PM 21 Q. Okay. I want to break down some of those statements.

02:13PM 22 You mentioned that the defendant said that he liked to
02:13PM 23 keep Mr. Gerace at arms length, and he denied ever initiating
02:13PM 24 contact with him; is that correct?

02:13PM 25 A. Yes.

02:13PM 1 **MS. CHALBECK:** Ms. Champoux, can we please pull up
02:13PM 2 Government Exhibit 310D as in David.

02:13PM 3 This is already in evidence, Your Honor.

02:13PM 4 **BY MS. CHALBECK:**

02:13PM 5 Q. Generally, Mr. Carpenter, do you understand that this is
02:13PM 6 a series of text messages between the defendant and Peter
02:13PM 7 Gerace?

02:13PM 8 A. Yes.

02:14PM 9 **MS. CHALBECK:** Can we go to page 5, Ms. Champoux.

02:14PM 10 **BY MS. CHALBECK:**

02:14PM 11 Q. I'm going to circle this text message from March 10th,
02:14PM 12 2015. Mr. Carpenter, when this defendant told you that he
02:14PM 13 kept Peter Gerace at an arms length, did he tell you that he
02:14PM 14 invited Peter over to a Saint Patrick's Day party at his
02:14PM 15 house?

02:14PM 16 A. No.

02:14PM 17 Q. Do you see what -- how Mr. Gerace responds to that
02:14PM 18 invitation?

02:14PM 19 A. Yes.

02:14PM 20 Q. What does he say?

02:14PM 21 A. Cool, thanks.

02:14PM 22 Q. And how does the defendant reply?

02:14PM 23 A. Hope you can make it bro.

02:14PM 24 **MS. CHALBECK:** Can we go to page 6, please,
02:14PM 25 Ms. Champoux.

02:14PM 1 BY MS. CHALBECK:

02:15PM 2 Q. And do you understand that the text messages in blue are

02:15PM 3 from Mr. Gerace, and that the text messages in gray are from

02:15PM 4 Mr. Bongiovanni?

02:15PM 5 A. Yes.

02:15PM 6 Q. Okay. When this defendant said that he kept Peter Gerace

02:15PM 7 at an arms length, did he tell you that Peter Gerace had

02:15PM 8 gifts for him?

02:15PM 9 A. No.

02:15PM 10 Q. Do you see a text message from May 1st, 2015?

02:15PM 11 A. Yes.

02:15PM 12 Q. What does that text message say?

02:15PM 13 A. Thanks. I still have a gift for you.

02:15PM 14 Q. And how does this defendant respond?

02:15PM 15 A. Just get better, bro, and I'll pick you up in the old

02:15PM 16 Buick and we'll hang out.

02:15PM 17 Q. And I should have asked, Mr. Carpenter, but did the

02:16PM 18 defendant deny that he was close friends with Mr. Gerace?

02:16PM 19 A. Yes.

02:16PM 20 Q. Is he calling him "bro" in this text message here?

02:16PM 21 A. Yes.

02:16PM 22 Q. Did he tell you about Peter Gerace's gift for him when he

02:16PM 23 denied being close friends with Peter?

02:16PM 24 A. No.

02:16PM 25 Q. Did he tell you about Peter Gerace's gift for him when he

02:16PM 1 said that he kept Peter at an arms length?

02:16PM 2 A. No.

02:16PM 3 **MS. CHALBECK:** Ms. Champoux, can we please go to
02:16PM 4 page 12.

02:16PM 5 **BY MS. CHALBECK:**

02:16PM 6 Q. Do you see a text message here from July 15th, 2015 from
02:16PM 7 the defendant to Peter Gerace?

02:16PM 8 A. Yes.

02:16PM 9 Q. Does that text message appear to -- withdrawn.

02:17PM 10 Can you read that text message, Mr. Carpenter?

02:17PM 11 A. We are meeting at my house for drinks then to Boss or
02:17PM 12 Scinta's if it don't rain at the festival. Come over, bro.

02:17PM 13 Q. When this defendant said that he kept Peter Gerace at an
02:17PM 14 arms length and denied being close friends with him, did he
02:17PM 15 tell you about the time that he invited Peter Gerace over for
02:17PM 16 drinks?

02:17PM 17 A. No.

02:17PM 18 **MS. CHALBECK:** Can we go to page 14, Ms. Champoux.

02:17PM 19 Is this page 14? Okay.

02:17PM 20 Can we go to page 15? Oh, excuse me. I'm sorry.

02:17PM 21 I'm blind and couldn't see it.

02:18PM 22 **BY MS. CHALBECK:**

02:18PM 23 Q. Do you see a text message from this defendant to Peter
02:18PM 24 Gerace on July 18th, 2015?

02:18PM 25 A. I see a few.

02:18PM 1 Q. Do you see -- what's the second typed message?

02:18PM 2 A. To Boss. Don't mention the golf tournament to Lindsay.

02:18PM 3 Q. And how does Peter Gerace reply?

02:18PM 4 A. I know. What time Boss?

02:18PM 5 Q. Do you understand that the golf tournament was a

02:18PM 6 Pharaoh's golf tournament, a stripper golf tournament that

02:18PM 7 Peter Gerace was sponsoring?

02:18PM 8 A. Yes.

02:18PM 9 Q. And is this the defendant texting Peter saying don't

02:18PM 10 bring that up to my wife?

02:18PM 11 A. Yes.

02:18PM 12 Q. And does Peter Gerace say, I know?

02:18PM 13 A. Yes.

02:18PM 14 Q. So did the defendant tell you that when he denied being

02:18PM 15 close friends with Peter Gerace and said that he kept him at

02:18PM 16 an arms length?

02:18PM 17 A. No.

02:18PM 18 **MS. CHALBECK:** Can we go to page 17, please,

02:18PM 19 Ms. Champoux?

02:19PM 20 **BY MS. CHALBECK:**

02:19PM 21 Q. Do you see at the bottom of your screen, Mr. Carpenter, a

02:19PM 22 text message from the defendant to Peter Gerace where it says

02:19PM 23 that he wanted to send Peter a letter, and he's asking for

02:19PM 24 his address?

02:19PM 25 A. Yes.

02:19PM 1 Q. Did the defendant tell you that he tried to send Peter a
02:19PM 2 letter in the mail when he denied being close friends with
02:19PM 3 him, and said he kept him at an arms length?

02:19PM 4 A. No.

02:19PM 5 Q. A letter in the mail. I think you also said,
02:19PM 6 Mr. Carpenter, that the defendant denied ever initiating
02:19PM 7 contact with Peter; is that correct?

02:19PM 8 A. Correct.

02:19PM 9 Q. So is sending Peter Gerace a letter in the mail
02:19PM 10 consistent or inconsistent with that denial?

02:19PM 11 A. It would be inconsistent.

02:19PM 12 **MS. CHALBECK:** Can we go to page 18, Ms. Champoux?

02:19PM 13 I'm sorry, can we go to page 28.

02:20PM 14 Can we go to page 29, Ms. Champoux?

02:20PM 15 **BY MS. CHALBECK:**

02:20PM 16 Q. Do you see a text message from June 18th, 2016 --

02:20PM 17 A. I do.

02:20PM 18 Q. -- from this defendant to Peter Gerace?

02:20PM 19 A. Yes.

02:20PM 20 Q. What does -- what does that text message say?

02:20PM 21 A. Great time last night. It was great to see you -- your
02:20PM 22 parents. Thanks again for the invitation.

02:20PM 23 Q. When this defendant said that he kept Peter Gerace at an
02:20PM 24 arms length and denied being close friends with him, did he
02:20PM 25 tell you that he attended Peter Gerace's family's functions?

02:20PM

1 A. No.

02:20PM

2 **MS. CHALBECK:** Can we go to page 30, Ms. Champoux?

02:21PM

3 **BY MS. CHALBECK:**

02:21PM

4 Q. Do you see a text message at the bottom here?

02:21PM

5 A. Yes.

02:21PM

6 Q. What does that text message say?

02:21PM

7 A. Nice. Hope you had a good time.

02:21PM

8 I'm trying to get a crew together for the Bills game in

02:21PM

9 Miami in October.

02:21PM

10 Q. So when the defendant said to you that he kept Peter

02:21PM

11 Gerace at an arms length and denied being close friends with

02:21PM

12 him, did he tell you that he once invited Peter Gerace to be

02:21PM

13 part of his crew to go to a Bills game in Miami?

02:21PM

14 A. No.

02:21PM

15 **MS. CHALBECK:** Can we go to page 34, Ms. Champoux?

02:21PM

16 **BY MS. CHALBECK:**

02:21PM

17 Q. Do you see text messages between Peter Gerace and the

02:21PM

18 defendant on pages 34 and 35 of this exhibit where they

02:21PM

19 appear to be complaining about their wives?

02:22PM

20 **MS. CHALBECK:** Can we scroll up a little bit?

02:22PM

21 **THE WITNESS:** Thank you.

02:22PM

22 **MS. CHALBECK:** And can we scroll down, Ms. Champoux?

02:22PM

23 **BY MS. CHALBECK:**

02:22PM

24 Q. What does this defendant say to Peter Gerace on

02:22PM

25 September 6th, 2016?

02:22PM 1 A. I going through the same shit. Always accusing me of
02:22PM 2 cheating.

02:22PM 3 Q. Do you understand that the defendant was married to
02:22PM 4 Lindsay Bongiovanni at the time?

02:22PM 5 A. Yes.

02:22PM 6 Q. So does it appear that he's telling Peter Gerace that he
02:22PM 7 also has marital difficulties?

02:22PM 8 A. Yes.

02:22PM 9 Q. Is that consistent or inconsistent with his denial to you
02:22PM 10 that they were close friends?

02:22PM 11 A. It would appear that they be close friends.

02:23PM 12 Q. Did you review all of the text messages between this
02:23PM 13 defendant and Peter Gerace contained in Government
02:23PM 14 Exhibit 310D?

02:23PM 15 A. Yes.

02:23PM 16 Q. How many times does this defendant tell Peter Gerace that
02:23PM 17 he loves him in this exhibit?

02:23PM 18 A. I saw five times.

02:23PM 19 Q. What dates were those?

02:23PM 20 A. I saw August 6th of 2015. I saw May 29th of 2016. I saw
02:23PM 21 June 26th of 2016. I saw September 29th of 2017. And
02:23PM 22 February 22nd of 2018.

02:23PM 23 Q. That's five times in the course of a handful of years
02:23PM 24 this defendant is telling Peter Gerace that he loves him?

02:23PM 25 A. Yes.

02:23PM 1 Q. Did he tell you that when he denied being close friends
02:23PM 2 with Peter and told you that he kept him at an arms length?

02:23PM 3 A. No.

02:24PM 4 **MS. CHALBECK:** We can get out of this exhibit,
02:24PM 5 Ms. Champoux. And can we please bring up Government
02:24PM 6 Exhibit 426-1 in evidence.

02:24PM 7 **BY MS. CHALBECK:**

02:24PM 8 Q. When the defendant denied being close friends with Peter
02:24PM 9 Gerace and told him he kept him at an arms length, did he
02:24PM 10 tell you that he went on double dates with Peter Gerace?

02:24PM 11 A. He did not.

02:24PM 12 Q. He didn't say, oh, yeah, I used to go on carriage rides
02:24PM 13 with Peter Gerace and my ex fiancée at Niagara-on-the-Lake?

02:24PM 14 **MR. SINGER:** Objection.

02:24PM 15 **THE COURT:** Basis?

02:24PM 16 **MR. SINGER:** I'll withdraw it, Judge.

02:24PM 17 **THE COURT:** Okay.

02:24PM 18 **BY MS. CHALBECK:**

02:24PM 19 Q. You can answer the question.

02:24PM 20 A. He did not.

02:24PM 21 Q. Did you ask the defendant if he ever went on vacations
02:24PM 22 with Peter Gerace?

02:24PM 23 A. I did.

02:24PM 24 Q. And what did he say when you asked that question?

02:25PM 25 A. He denied ever going on vacations or vacationing with

02:25PM 1 Peter Gerace.

02:25PM 2 Q. After he denied it, did he give a followup to that
02:25PM 3 question?

02:25PM 4 A. He did.

02:25PM 5 Q. What did he say?

02:25PM 6 A. He did mention that there was one trip that he -- the

02:25PM 7 defendant took to Las Vegas. While out there, he ran into

02:25PM 8 Peter Gerace. He said there was no preplanning of that trip,
02:25PM 9 that was just a purely coincidental running in.

02:25PM 10 **MS. CHALBECK:** Ms. Champoux, can we please pull up
02:25PM 11 Government's Exhibit 490A, as in alpha. It's already in
02:25PM 12 evidence.

02:25PM 13 **BY MS. CHALBECK:**

02:25PM 14 Q. Mr. Carpenter, do you see a photo of this defendant
02:25PM 15 standing next to Peter Gerace?

02:25PM 16 A. Yes.

02:25PM 17 Q. Do you understand that this photograph was taken in
02:25PM 18 Las Vegas?

02:25PM 19 A. Yes.

02:25PM 20 Q. And can you just read the date in the lower left-hand
02:25PM 21 corner of the picture?

02:25PM 22 A. August 25th, 2011.

02:25PM 23 **MS. CHALBECK:** And, Ms. Champoux, I'm sorry, can we
02:26PM 24 please bring back up and put side by side Government Exhibits
02:26PM 25 426-1.

02:26PM

1 BY MS. CHALBECK:

2 Q. With respect to 426, Government Exhibit 426-1,

3 Mr. Carpenter, do you understand that this photograph was
4 taken approximately in the summer of 2005?

5 A. Yes.

6 Q. So that's about six years in between these photographs?

7 A. Yes.

8 Q. Mr. Bongiovanni is with two different women in this
9 photograph, fair to say -- in these photographs?

10 A. Yes.

11 Q. But Peter Gerace is still there?

12 A. Correct.

13 MS. CHALBECK: We can keep these up, Ms. Champoux.

14 BY MS. CHALBECK:

15 Q. And, Mr. Carpenter, I want to turn to some other comments
16 that the defendant made during your interview with him.

17 I think he said earlier he liked to keep Peter Gerace on
18 a, quote, short leash, unquote, in an effort to gather
19 information about criminal activity at Pharaoh's; is that
20 correct?

21 A. Yes.

22 Q. What did you understand that to mean?

23 A. I understood that to mean that to whatever extent there
24 was a relationship there, that he was using it as a way of
25 trying to obtain information that he could possibly use to

02:27PM 1 investigate Pharaoh's.

02:27PM 2 Q. Do these photos show the defendant socializing with the
02:27PM 3 owner of Pharaoh's?

02:27PM 4 A. Yes.

02:27PM 5 Q. What did the defendant say to you about his contact with
02:27PM 6 Peter Gerace?

02:27PM 7 A. He denied ever initiating contact.

02:27PM 8 Q. Why was it important for you to understand whether the
02:28PM 9 defendant ever initiated contact with Mr. Gerace?

02:28PM 10 A. I wanted to know if that relationship was a one-way or
02:28PM 11 two-way street. If the communication flowed both ways. If
02:28PM 12 one of them reached out more than the other, or if there was
02:28PM 13 ignoring of communication on an end.

02:28PM 14 **MS. CHALBECK:** Ms. Champoux, can we take these down,
02:28PM 15 and can we please pull up Government Exhibit 358-A.

02:28PM 16 Judge, this is just a submarked exhibit of 358, which
02:28PM 17 is already in evidence.

02:28PM 18 **BY MS. CHALBECK:**

02:28PM 19 Q. Now, let's orient the jury a little bit to what we're
02:28PM 20 looking at.

02:28PM 21 Do you understand these to be the defendant's phone
02:28PM 22 bills --

02:28PM 23 A. Yes.

02:28PM 24 Q. -- from his DEA telephone number?

02:28PM 25 A. Yes.

02:28PM 1 Q. Okay. Do you see DEA kind of in the address column
02:28PM 2 there?

02:28PM 3 A. Yes.

02:28PM 4 Q. Okay. And does it look like these bills start in
02:29PM 5 December of 2013?

02:29PM 6 A. Yes.

02:29PM 7 Q. And they go to about 2018; is that correct?

02:29PM 8 A. Yes.

02:29PM 9 **MS. CHALBECK:** Ms. Champoux, can we please go to page
02:29PM 10 52. Maybe we can zoom in, there's a telephone call from
02:29PM 11 March, we can start at the top.

02:29PM 12 Well, first, here -- withdrawn.

02:29PM 13 **BY MS. CHALBECK:**

02:29PM 14 Q. Do you see the date in the top right-hand corner of these
02:29PM 15 bills, Mr. Carpenter?

02:29PM 16 A. April 18th, 2014.

02:29PM 17 Q. Okay. So we're in the year 2014?

02:29PM 18 A. Yes.

02:29PM 19 **MS. CHALBECK:** And, Ms. Champoux, can we just zoom in
02:29PM 20 on maybe the first half?

02:29PM 21 **BY MS. CHALBECK:**

02:29PM 22 Q. Now, do you see at this very top row, there's a line here
02:30PM 23 called incoming? Do you see that?

02:30PM 24 A. Yes.

02:30PM 25 Q. Do you understand that to be how the bills register

02:30PM 1 incoming calls?

02:30PM 2 A. Yes.

02:30PM 3 Q. And so if "incoming" is not there, is it your
02:30PM 4 understanding that that's an outgoing call?

02:30PM 5 A. Yes.

02:30PM 6 Q. A call that the defendant would place to some other
02:30PM 7 telephone number?

02:30PM 8 A. Yes.

02:30PM 9 Q. Do you see a call on March 19th, 2014, at 8:27 p.m. from
02:30PM 10 this defendant to Peter Gerace?

02:30PM 11 A. Yes.

02:30PM 12 Q. Is that the defendant initiating contact with Peter
02:30PM 13 Gerace?

02:30PM 14 A. Yes.

02:30PM 15 Q. Do you see Peter Gerace calling this defendant earlier in
02:30PM 16 the day?

02:30PM 17 A. I do not.

02:30PM 18 Q. Okay.

02:30PM 19 **MS. CHALBECK:** Let's go to page 83 of this exhibit,
02:31PM 20 Ms. Champoux, to June 7th, 2014, at around 7:40 p.m.

02:31PM 21 **BY MS. CHALBECK:**

02:31PM 22 Q. And just so that the record is clear, Mr. Carpenter,
02:31PM 23 Peter Gerace's number is 716-725-1931; is that correct?

02:31PM 24 A. Yes.

02:31PM 25 Q. On June 7th, 2014, at around 7:40 p.m., do you see this

02:31PM 1 defendant placing another call to Peter Gerace?

02:31PM 2 A. Yes.

02:31PM 3 Q. Did he tell you about that call when he denied initiating
02:31PM 4 contact with Peter Gerace?

02:31PM 5 A. No.

02:31PM 6 Q. Is this call consistent or inconsistent with his
02:31PM 7 statements to you?

02:31PM 8 A. Inconsistent.

02:31PM 9 **MS. CHALBECK:** Ms. Champoux, can we go to page 99.

02:31PM 10 And can -- thank you.

02:31PM 11 **BY MS. CHALBECK:**

02:31PM 12 Q. Mr. Carpenter, do you see another call that this
02:32PM 13 defendant placed to Peter Gerace on July 23rd, at 9:47 a.m.?

02:32PM 14 A. Yes.

02:32PM 15 Q. How long is that call?

02:32PM 16 A. Four minutes.

02:32PM 17 Q. Did the defendant tell you about that when he denied ever
02:32PM 18 initiating contact with Peter Gerace?

02:32PM 19 A. No.

02:32PM 20 Q. But this is a call that this defendant placed to Peter on
02:32PM 21 that day; is that correct?

02:32PM 22 A. Yes.

02:32PM 23 **MS. CHALBECK:** Can we go to page 118, Ms. Champoux?

02:32PM 24 We're looking at September 4th at around 12:21 p.m.

02:32PM 25

02:32PM 1 BY MS. CHALBECK:

02:32PM 2 Q. Do you see a call that this defendant placed to Peter

02:32PM 3 Gerace on September 4th at 12:21 p.m.?

02:32PM 4 A. Yes.

02:32PM 5 Q. How long is that call for?

02:32PM 6 A. 20 minutes.

02:32PM 7 Q. 20 minutes. Did this defendant tell you about that call

02:33PM 8 when he denied ever initiating contact with Peter Gerace?

02:33PM 9 A. No.

02:33PM 10 Q. So is this 20-minute phone call that the defendant

02:33PM 11 initiated consistent or inconsistent with his comments to

02:33PM 12 you?

02:33PM 13 A. Inconsistent.

02:33PM 14 MS. CHALBECK: Could we go to page 154, Ms. Champoux?

02:33PM 15 And we're looking for December 8th, 2014, at around 12:52 p.m.

02:33PM 16 BY MS. CHALBECK:

02:33PM 17 Q. Mr. Carpenter, do you see in about the top here, another

02:33PM 18 instance of this defendant initiating contact with Peter

02:33PM 19 Gerace?

02:33PM 20 A. Yes.

02:33PM 21 Q. Does it, in fact, actually look like he calls Peter, and

02:33PM 22 then Peter calls him back soon thereafter?

02:33PM 23 A. Yes.

02:33PM 24 Q. And you know that because "incoming," right?

02:33PM 25 A. Correct.

02:33PM 1 Q. Did he tell you about those calls when he denied ever
02:34PM 2 initiating contact?

02:34PM 3 A. No.

02:34PM 4 **MS. CHALBECK:** Ms. Champoux, can we please go to
02:34PM 5 page 211, to June 6th, 2015 at 3:55 p.m.

02:34PM 6 **BY MS. CHALBECK:**

02:34PM 7 Q. ASAC Carpenter, do you see another instance of this
02:34PM 8 defendant calling Peter Gerace?

02:34PM 9 A. Yes.

02:34PM 10 Q. How long is the call?

02:34PM 11 A. Six minutes.

02:34PM 12 Q. Did he tell you about that when he denied ever initiating
02:34PM 13 contact with Peter Gerace?

02:34PM 14 A. No.

02:34PM 15 **MS. CHALBECK:** Can we go to page 212, Ms. Champoux,
02:35PM 16 to June 10th, 2015 at 6:29.

02:35PM 17 **BY MS. CHALBECK:**

02:35PM 18 Q. And just a few days later, Mr. Carpenter, does this
02:35PM 19 defendant call Peter Gerace again?

02:35PM 20 A. Yes.

02:35PM 21 Q. How long is the call?

02:35PM 22 A. Nine minutes.

02:35PM 23 Q. Is that a call that this defendant initiated to Peter
02:35PM 24 Gerace?

02:35PM 25 A. Yes.

02:35PM 1 Q. Did he tell you about that call?

02:35PM 2 A. No.

02:35PM 3 **MS. CHALBECK:** Could we go to page 225, Ms. Champoux,
02:35PM 4 to July 13th, 2015, at 10:46 a.m.

02:35PM 5 **BY MS. CHALBECK:**

02:35PM 6 Q. Do you see a call at 10:46 a.m. that this defendant
02:36PM 7 places to Peter Gerace, Mr. Carpenter?

02:36PM 8 A. I do.

02:36PM 9 Q. And does it look like, again, Peter called him back just
02:36PM 10 a short time later?

02:36PM 11 A. Yes.

02:36PM 12 Q. But when Peter calls him back, that's after this
02:36PM 13 defendant initiated contact, fair?

02:36PM 14 A. That's correct.

02:36PM 15 Q. Did he tell you about that?

02:36PM 16 A. No.

02:36PM 17 **MS. CHALBECK:** Can we please go to page 226,

02:36PM 18 Ms. Champoux, to July 19th at 3:01. I think it's at the very
02:36PM 19 bottom.

02:36PM 20 **BY MS. CHALBECK:**

02:36PM 21 Q. On this date, July 19th, do you see another instance of
02:36PM 22 this defendant initiating contact with Peter Gerace?

02:36PM 23 A. Yes.

02:36PM 24 Q. Is that a six-minute call?

02:37PM 25 A. Yes.

02:37PM 1 Q. Is that consistent or inconsistent with his denial that
02:37PM 2 he ever initiated contact with Peter Gerace?

02:37PM 3 A. Inconsistent.

02:37PM 4 Q. For that matter, is it consistent or inconsistent with
02:37PM 5 him saying that he kept Peter Gerace at an arms length?

02:37PM 6 A. Inconsistent.

02:37PM 7 **MS. CHALBECK:** Can we go to page 227, Ms. Champoux?

02:37PM 8 I'm looking for July 21st, 2015, at 9:34 a.m.

02:37PM 9 **BY MS. CHALBECK:**

02:37PM 10 Q. Do you see a call here from this defendant to Peter
02:37PM 11 Gerace where he is initiating contact?

02:37PM 12 A. Yes.

02:37PM 13 Q. How long is that call for?

02:37PM 14 A. Seven minutes.

02:37PM 15 Q. Did he tell you about that during your interview with
02:37PM 16 him?

02:37PM 17 A. No.

02:38PM 18 **MS. CHALBECK:** Ms. Champoux, can we please go to page
02:38PM 19 234, to August 1st, 2015 at 6:18 p.m.?

02:38PM 20 **BY MS. CHALBECK:**

02:38PM 21 Q. Do you see another instance here where this defendant is
02:38PM 22 calling Peter Gerace?

02:38PM 23 A. Yes.

02:38PM 24 Q. How long is that call for?

02:38PM 25 A. Two minutes.

02:38PM 1 Q. I'm going to fast forward, Mr. Carpenter, to 2017?

02:38PM 2 **MS. CHALBECK:** Can you please go to page 450,

02:38PM 3 Ms. Champoux?

02:38PM 4 **BY MS. CHALBECK:**

02:38PM 5 Q. Now we were just looking at 2015 calls. And now fair to
02:39PM 6 say that we're in 2017?

02:39PM 7 A. Yes.

02:39PM 8 Q. Is it fair to say that there are a number of calls in
02:39PM 9 between where we just were in 2015 to 2017 where this
02:39PM 10 defendant calls Peter Gerace?

02:39PM 11 A. I'm sorry?

02:39PM 12 Q. Sorry, I asked a poorly-phrased question.

02:39PM 13 So we've just fast forwarded two years roughly. Is it
02:39PM 14 fair to say that in that period, even though we didn't go
02:39PM 15 through them one by one, that this defendant calls Peter
02:39PM 16 Gerace several times --

02:39PM 17 A. Yes.

02:39PM 18 Q. -- where he's initiating contact, telephone contact with
02:39PM 19 Peter Gerace?

02:39PM 20 A. Yes.

02:39PM 21 Q. Now, on page 450 of this exhibit?

02:39PM 22 **MS. CHALBECK:** Ms. Champoux, can we zoom in on
02:39PM 23 May 9th, 2017 at 10:57 a.m.

02:39PM 24 **BY MS. CHALBECK:**

02:39PM 25 Q. Who called who in this call?

02:39PM 1 A. At 10:57, the defendant calls Peter Gerace.

02:39PM 2 Q. How long does that call last?

02:40PM 3 A. 16 minutes.

02:40PM 4 Q. He didn't tell you about that call?

02:40PM 5 A. No.

02:40PM 6 Q. Are all of these telephone calls that we went through and

02:40PM 7 then the ones in that interim two-year period, are those all

02:40PM 8 inconsistent with this defendant's denial that he ever

02:40PM 9 initiated contact with Peter Gerace?

02:40PM 10 A. Yes.

02:40PM 11 **MS. CHALBECK:** Ms. Champoux, can we please bring up

02:40PM 12 Government Exhibit 98 already in evidence?

02:40PM 13 **BY MS. CHALBECK:**

02:40PM 14 Q. Are you familiar with this memo, Mr. Carpenter?

02:40PM 15 A. Yes.

02:40PM 16 Q. Did you review it prior to your interview with the

02:40PM 17 defendant on March 29th, 2019?

02:40PM 18 A. Yes.

02:40PM 19 Q. Is this a, you know, fair to say that this is a memo that

02:40PM 20 this defendant authored to his supervisors in the DEA?

02:40PM 21 A. Yes.

02:40PM 22 Q. And you see the subject in this upper left-hand corner?

02:40PM 23 A. Communication with Peter Gerace.

02:40PM 24 Q. And what's the date?

02:41PM 25 A. December 10th, 2018.

02:41PM 1 Q. Okay.

02:41PM 2 **MS. CHALBECK:** Ms. Champoux, can we please go to
02:41PM 3 page 2. And can we zoom in on that last sentence.

02:41PM 4 **BY MS. CHALBECK:**

02:41PM 5 Q. Will you please read that last sentence into the record,
02:41PM 6 Mr. Carpenter?

02:41PM 7 A. I have and will report all contact with Gerace to a DEA
02:41PM 8 supervisor like I have in the past and will in the future
02:41PM 9 should unsolicited communication with Gerace occur.

02:41PM 10 Q. Now, in your capacity in this investigation, have you
02:41PM 11 seen anything suggesting that this defendant reported any of
02:41PM 12 those calls that we just went through to a DEA supervisor?

02:41PM 13 A. No.

02:41PM 14 Q. I want to pivot to other statements that this defendant
02:41PM 15 made during your March 29th interview.

02:41PM 16 Did you ask the defendant if he had ever seen Mr. Gerace
02:42PM 17 use illegal drugs?

02:42PM 18 A. I believe I asked him if he'd seen him consume drugs.

02:42PM 19 Q. Okay.

02:42PM 20 A. And he denied seeing Peter Gerace consume drugs.

02:42PM 21 Q. Okay. Using drugs, consuming drugs, basically the same
02:42PM 22 thing?

02:42PM 23 A. You can't use without consuming.

02:42PM 24 Q. Okay. Why did you ask him if he had ever seen Peter
02:42PM 25 Gerace consume illegal drugs?

02:42PM 1 A. I wanted to know in the context of their friendship,
02:42PM 2 their relationship, to what extent their relationship was.
02:42PM 3 If that was somebody that he had seen use narcotics, that
02:42PM 4 would have indicated the type of relationship that they had.
02:42PM 5 Also would have indicated if it was true, to present an
02:42PM 6 opportunity for Mr. Bongiovanni to provide law-enforcement
02:42PM 7 sensitive information to somebody he witnessed using drugs.
02:42PM 8 And as people use narcotics continue to use narcotics knowing
02:42PM 9 they're illegal, if they're getting any information to allow
02:43PM 10 them to continue that illegal activity would be beneficial to
02:43PM 11 them, to continue that illegal activity is useful.
02:43PM 12 Q. Okay. Was knowing whether this defendant consumed --
02:43PM 13 withdrawn.
02:43PM 14 Is knowing whether this defendant saw Peter Gerace
02:43PM 15 consume narcotics important to your investigation?
02:43PM 16 A. Yes.
02:43PM 17 Q. And when you asked him that question, what response did
02:43PM 18 he give you?
02:43PM 19 A. He denied seeing Peter Gerace consume narcotics.
02:43PM 20 Q. I think you testified earlier, Mr. Carpenter, that the
02:43PM 21 defendant wanted to keep Peter Gerace on a short leash; is
02:43PM 22 that right?
02:43PM 23 A. Yes.
02:44PM 24 Q. And I think you testified that that was so that he could
02:44PM 25 investigate criminal activity at Pharaoh's?

02:44PM 1 A. So he could obtain -- in the hopes of obtaining
02:44PM 2 information for investigative purposes, yes.
02:44PM 3 Q. Did the defendant -- I'm sorry. Did the defendant tell
02:44PM 4 you that he knew Peter Gerace was the owner of Pharaoh's?
02:44PM 5 A. Yes.
02:44PM 6 Q. Kind of in connection with that part of the interview,
02:44PM 7 Mr. Carpenter, did you ask the defendant if Peter Gerace had
02:44PM 8 ever called him while someone was actively overdosing?
02:44PM 9 A. Yes.
02:44PM 10 Q. And what did the defendant say?
02:44PM 11 A. He denied receiving a phone call from Peter Gerace while
02:44PM 12 somebody was actively overdosing at Pharaoh's.
02:44PM 13 He said that Peter Gerace had asked him about what he
02:44PM 14 should do if somebody at Pharaoh's were to overdose.
02:45PM 15 And Mr. Bongiovanni stated that -- he advised him to
02:45PM 16 become trained in Narcan.
02:45PM 17 Q. That's what this defendant said about what he told Peter
02:45PM 18 Gerace?
02:45PM 19 A. Yes.
02:45PM 20 Q. With respect to his comment about, you know, wanting to
02:45PM 21 investigate Pharaoh's, in your capacity in this
02:45PM 22 investigation, have you seen anything suggesting that this
02:45PM 23 defendant was ever investigating Pharaoh's?
02:45PM 24 A. I have not.
02:45PM 25 Q. So we've just talked about March 29th, 2019, your

02:45PM 1 interview with him. I want to fast forward a few months to
02:45PM 2 June 6th of 2019.

02:45PM 3 Did you, along with Special Agent Curtis Ryan, interview
02:45PM 4 the defendant a second time that day? Or a second time on
02:45PM 5 that day?

02:45PM 6 A. Agent Ryan and I interviewed the defendant on June 6th,
02:46PM 7 yes.

02:46PM 8 Q. Okay. Can you just describe for the jury the context of
02:46PM 9 that interview? What lead to it?

02:46PM 10 A. A search warrant was conducted at the defendant's
02:46PM 11 residence. And after the search warrant, after things had
02:46PM 12 settled down, the defendant was approached to see if he would
02:46PM 13 agree to be interviewed, which he agreed to do.

02:46PM 14 Q. Was that a voluntary interview again?

02:46PM 15 A. It was.

02:46PM 16 Q. And fair to say that when the search warrant was first
02:46PM 17 being executed, there was like a SWAT-like team that entered
02:46PM 18 the residence?

02:46PM 19 A. Yes.

02:46PM 20 Q. Did your interview occur decently after that?

02:46PM 21 A. Yes.

02:46PM 22 Q. Okay. There were still law enforcement agents in the
02:46PM 23 residence, correct?

02:46PM 24 A. Yes.

02:46PM 25 Q. Okay. What was the defendant's demeanor when you

02:46PM 1 initiated the interview?

02:46PM 2 A. He seemed calm. He seemed relaxed. He seemed
02:46PM 3 comfortable.

02:46PM 4 Q. Who was leading the interview?

02:47PM 5 A. Curtis Ryan.

02:47PM 6 Q. And what was your job?

02:47PM 7 A. My job was help Curtis, if he were to forget, help him
02:47PM 8 out. If there's something said that needed a follow-up
02:47PM 9 question, to make sure that we stayed on task. Just to help
02:47PM 10 facilitate the interview. More of a passive participant in
02:47PM 11 it.

02:47PM 12 Q. So fair to say you were just kind of there to assist if
02:47PM 13 needed?

02:47PM 14 A. Yes.

02:47PM 15 Q. I'm not going to ask questions about, you know, a lot of
02:47PM 16 what was said during that interview because the jury's
02:47PM 17 already heard it. But just generally, did Special Agent Ryan
02:47PM 18 ask this defendant a series, like, of questions?

02:47PM 19 A. Yes.

02:47PM 20 Q. At some point, did the conversation turn to an individual
02:48PM 21 named Frank Parisi?

02:48PM 22 A. Yes.

02:48PM 23 Q. Did Special Agent Ryan ask the defendant about Frank
02:48PM 24 Parisi?

02:48PM 25 A. He did.

02:48PM 1 Q. Was the defendant answering those questions?

02:48PM 2 A. I can't recall exactly how much he said about Frank
02:48PM 3 Parisi.

02:48PM 4 Q. At some point during the conversation, Mr. Carpenter, did
02:48PM 5 the defendant's wife interject herself while you all were
02:48PM 6 talking about Frank Parisi?

02:48PM 7 A. Yes.

02:48PM 8 Q. When the defendant's wife interjected herself, what
02:48PM 9 happened to the defendant and Special Agent Ryan's, like,
02:48PM 10 attention?

02:48PM 11 A. Their attention was refocused to her as she was coming
02:48PM 12 from a different part of the room. So they instinctively
02:48PM 13 just turned towards her were and looking at her.

02:48PM 14 Q. While Special Agent Ryan's attention was on the
02:49PM 15 defendant's wife, where was your focus?

02:49PM 16 A. I looked -- I was looking at the defendant.

02:49PM 17 Q. Did you see this defendant do anything while agents were
02:49PM 18 listening to his wife start talking about Frank Parisi?

02:49PM 19 A. As she was speaking, I saw him shake his head in a left
02:49PM 20 to right no fashion.

02:49PM 21 Q. Can you just demonstrate that for the jury?

02:49PM 22 A. (Demonstrating.)

02:49PM 23 Q. That's what this defendant did to his wife --

02:49PM 24 A. Yes.

02:49PM 25 Q. -- when she was talking about Frank Parisi?

02:49PM 1 A. Yes.

02:49PM 2 Q. I'm going to pause right there.

02:49PM 3 **MS. CHALBECK:** Ms. Champoux, can we please bring up
02:49PM 4 Government Exhibit 46 already in evidence? And can we go, I
02:49PM 5 think it's on page 2, I think it's the contact for Frank
02:49PM 6 Parisi.

02:50PM 7 **BY MS. CHALBECK:**

02:50PM 8 Q. What's the telephone number for Frank Parisi in this
02:50PM 9 exhibit?

02:50PM 10 A. 716-481-8111.

02:50PM 11 Q. Okay.

02:50PM 12 **MS. CHALBECK:** We can pull that down, Ms. Champoux.
02:50PM 13 And then can we please pull back up Government
02:50PM 14 Exhibit 358A already in evidence.

02:50PM 15 **BY MS. CHALBECK:**

02:50PM 16 Q. These are Mr. -- fair to say these are Mr. Bongiovanni's
02:50PM 17 bills, we were just looking at them?

02:50PM 18 A. Yes.

02:50PM 19 **MS. CHALBECK:** Okay. And can we go to page 48.

02:50PM 20 **BY MS. CHALBECK:**

02:50PM 21 Q. And at the very bottom, we're in April of 2014 of this
02:50PM 22 bill cycle, do you see an incoming call from Frank Parisi to
02:50PM 23 this defendant?

02:50PM 24 A. Yes.

02:50PM 25 Q. That's the same person who this defendant to his wife

02:51PM 1 went and look shook his head back and forth from left to,
02:51PM 2 right?

02:51PM 3 A. Yes.

02:51PM 4 Q. Okay. Going back to your June 6th, 2019 interview with
02:51PM 5 the defendant, did there come a time when a box of DEA file
02:51PM 6 materials was discovered in the defendant's basement?

02:51PM 7 A. Yes.

02:51PM 8 Q. Do you recall Special Agent Ryan asking the defendant why
02:51PM 9 he had that box?

02:51PM 10 A. Yes.

02:51PM 11 Q. Did he actually end up asking the defendant two times why
02:51PM 12 he had the box?

02:51PM 13 A. Yes.

02:51PM 14 Q. As best as you can recall, Mr. Carpenter, what did the
02:51PM 15 defendant say?

02:51PM 16 A. The first time the defendant stated that he had the box
02:51PM 17 because he knew that HSI was investigating Italian Organized
02:52PM 18 Crime and that this case fit that profile. And he wanted to
02:52PM 19 hold onto it in case there were any inconsistencies.

02:52PM 20 Q. Did the defendant explain how he knew that there was an
02:52PM 21 Italian Organized Crime investigation going on?

02:52PM 22 A. He stated that during my March interview with him, that I
02:52PM 23 mentioned the name of Ron Serio and that led to this.

02:52PM 24 Q. Okay. Did he, at some point, tell you, though, both you
02:52PM 25 and Special Agent Ryan, that he took the box home at

02:52PM 1 retirement?

02:52PM 2 A. Yes.

02:52PM 3 Q. When do you understand that the defendant retired?

02:52PM 4 A. His effective date of retirement was January 31st of
02:52PM 5 2021. However, due to weather, the office was closed. So he
02:52PM 6 was not able to gather his belongings until February 1st. So

02:53PM 7 February 1st was the day he turned in all of his --

02:53PM 8 February 1st was his last effective day at the DEA.

02:53PM 9 Q. Okay. And did this defendant tell you that he took the
02:53PM 10 box home because he learned in your interview with him that
02:53PM 11 you all were investigating -- or, that someone was
02:53PM 12 investigating Ron Serio?

02:53PM 13 A. Yes.

02:53PM 14 Q. When did your interview with the defendant take place?

02:53PM 15 A. March 29th of 2018.

02:53PM 16 Q. It's almost -- almost two full months after the defendant
02:53PM 17 took the box home?

02:53PM 18 A. Yes.

02:53PM 19 Q. According to him?

02:53PM 20 A. Yes.

02:53PM 21 Q. Like, is that possible, Mr. Carpenter?

02:53PM 22 **MR. SINGER:** Objection.

02:53PM 23 **THE COURT:** Sustained.

02:53PM 24 **BY MS. CHALBECK:**

02:53PM 25 Q. Is that consistent or inconsistent with, like, the timing

02:53PM 1 of events?

02:53PM 2 **MR. SINGER:** Objection.

02:53PM 3 **THE COURT:** Yeah, sustained.

02:54PM 4 **BY MS. CHALBECK:**

02:54PM 5 Q. Your interview with this defendant occurred on March 29th
02:54PM 6 of 2019; is that correct?

02:54PM 7 A. Yes.

02:54PM 8 Q. This defendant told you all that he took the box home on
02:54PM 9 February 1st?

02:54PM 10 A. Yes.

02:54PM 11 Q. When you asked -- excuse me. When Special Agent Ryan
02:54PM 12 asked why the defendant took the box home, did he in sum and
02:54PM 13 substance say it was because he learned from your March 29th
02:54PM 14 interview?

02:54PM 15 A. Yes.

02:54PM 16 Q. Okay. During that March 29, 2019 interview, did you ever
02:54PM 17 bring up the name Ron Serio?

02:54PM 18 A. No.

02:54PM 19 Q. And in that list of names that you asked about during the
02:54PM 20 interview, were there seven people?

02:54PM 21 A. Yes.

02:54PM 22 Q. And T.S.'s name was sandwiched between six other folks?

02:54PM 23 A. Yes.

02:54PM 24 **MS. CHALBECK:** May I have one moment, Your Honor?

02:54PM 25 **THE COURT:** Yes.

02:54PM 1 BY MS. CHALBECK:

02:55PM 2 Q. Going back to the June 6th interview with the search
02:55PM 3 warrant at the defendant's home.

02:55PM 4 Did this defendant say at the table when you were
02:55PM 5 interviewing him that he kept the file to confirm that
02:55PM 6 everything was on the up and up?

02:55PM 7 A. I believe that was the quote, yes.

02:55PM 8 MS. CHALBECK: Nothing further, Your Honor.

02:55PM 9 THE COURT: Mr. Singer.

02:55PM 10

02:55PM 11 CROSS-EXAMINATION BY MR. SINGER:

02:56PM 12 Q. All right. So, Mr. Carpenter, so the way that I
02:56PM 13 understand it is that you got involved in this investigation
02:56PM 14 in 2018; is that right?

02:56PM 15 A. Yes.

02:56PM 16 Q. And at the time, I know that you had a number of
02:56PM 17 different jobs in law enforcement. But at that one
02:56PM 18 particular period of time, you were working as -- was it an
02:56PM 19 inspector for the Department of Justice OIG? Or what was
02:56PM 20 your title?

02:56PM 21 A. Special agent, criminal investigator.

02:56PM 22 Q. Special agent, okay. So your principal job at the OIG,
02:56PM 23 that's Office of Inspector General, right?

02:56PM 24 A. Yes.

02:56PM 25 Q. Your principal job at the OIG's office was to investigate

02:57PM 1 allegations of misconduct that rose to a criminal level
02:57PM 2 involving employees that worked for the Department of Justice
02:57PM 3 or its subdepartments?

02:57PM 4 A. Yes.

02:57PM 5 Q. And I think you mentioned that the distinction between
02:57PM 6 you and someone like Frank DiCarlo is that Mr. DiCarlo, he at
02:57PM 7 the time was working at the DEA's Office of Professional
02:57PM 8 Responsibility?

02:57PM 9 A. I don't recall discussing Mr. DiCarlo.

02:57PM 10 Q. Okay. You know who Frank DiCarlo is though?

02:57PM 11 A. I do.

02:57PM 12 Q. He's somebody who works, at that time, at the DEA Office
02:57PM 13 of Professional Responsibility?

02:57PM 14 A. Yes.

02:57PM 15 Q. That's nicknamed OPR for short?

02:57PM 16 A. Yes.

02:57PM 17 Q. And OPR was different than OIG, because OPR took more
02:57PM 18 administrative misconduct cases?

02:57PM 19 A. Correct.

02:57PM 20 Q. Ones that didn't rise to a criminal level as far as the
02:57PM 21 investigative activities were concerned?

02:57PM 22 A. Yes.

02:57PM 23 Q. And so that was the distinction between you two, correct?

02:57PM 24 A. Yes.

02:57PM 25 Q. And then you also talked about a distinction that also

02:57PM 1 existed between yourself and Special Agent Ryan, correct?

02:58PM 2 A. Correct.

02:58PM 3 Q. And so Special Agent Ryan, he worked for the Department
02:58PM 4 of Homeland Security?

02:58PM 5 A. Yes.

02:58PM 6 Q. HSI?

02:58PM 7 A. Yes.

02:58PM 8 Q. Okay. And he was tasked with a criminal investigation
02:58PM 9 regarding Ron Serio?

02:58PM 10 A. Yes.

02:58PM 11 Q. But there were also some allegations involving
02:58PM 12 Mr. Bongiovanni in that case, correct?

02:58PM 13 A. Yes.

02:58PM 14 Q. And, so, he was also investigating Mr. Bongiovanni on a
02:58PM 15 criminal level, correct?

02:58PM 16 A. Yes.

02:58PM 17 Q. And I think the way that you described it was that you
02:58PM 18 two agreed -- or, was it you two, or was it somebody else

02:58PM 19 above you? How was the line drawn between your investigation
02:58PM 20 and Special Agent Ryan's investigation?

02:58PM 21 A. My investigation was focused on the allegations made
02:58PM 22 against the defendant and as related to the Ron Serio piece.

02:58PM 23 Q. Yeah. No, no, I think you established that on direct.
02:58PM 24 What I'm getting at is who was it that tried to draw this
02:58PM 25 line between your two investigations?

02:58PM 1 A. I can't recall.

02:58PM 2 Q. Okay. Was it one of your superiors that did this? Or
02:59PM 3 was it you and Agent Ryan that had this agreement?

02:59PM 4 A. I don't recall who the -- how it came down.

02:59PM 5 Q. Okay. But you do recall that at least in some fashion,
02:59PM 6 you and Special Agent Ryan had a gentleman's agreement, let's
02:59PM 7 put it that way, where you would stick your investigation
02:59PM 8 focused solely on the racial allegation that Mr. Casullo made
02:59PM 9 against Mr. Bongiovanni, right?

02:59PM 10 A. Yes.

02:59PM 11 Q. And then also focus it on whether there was an
02:59PM 12 inappropriate relationship with Peter Gerace, between Mr.
02:59PM 13 Bongiovanni and Mr. Gerace, correct?

02:59PM 14 A. Yes.

02:59PM 15 Q. And then Special Agent Ryan would focus his investigation
02:59PM 16 on Ron Serio and whether Mr. Bongiovanni did anything
02:59PM 17 inappropriate there?

02:59PM 18 A. That's part of his organization -- as part of his larger
02:59PM 19 investigation, yes.

02:59PM 20 Q. Okay. So that was the line that you two drew, correct?

02:59PM 21 A. Yes.

02:59PM 22 Q. All right. So, before I get into that, I just want to go
02:59PM 23 through a couple things going on.

02:59PM 24 So you talked about how your part of the investigation
02:59PM 25 didn't only involve Mr. Bongiovanni at the DEA; is that

02:59PM 1 right?

03:00PM 2 A. I don't recall. I only recall discussing

03:00PM 3 Mr. Bongiovanni.

03:00PM 4 Q. Sure. So OIG at the time that you're involved in this

03:00PM 5 case was investigating other agents at the DEA office in

03:00PM 6 Buffalo, correct?

03:00PM 7 A. Not that I know of.

03:00PM 8 Q. You don't know of any other agents that were being

03:00PM 9 investigated?

03:00PM 10 A. No.

03:00PM 11 Q. Well, sir, you talked about subject letters. Remember

03:00PM 12 that part of your direct testimony?

03:00PM 13 A. I don't recall discussing subject letters.

03:00PM 14 Q. You don't recall discussing any type of subject letters?

03:00PM 15 A. No.

03:00PM 16 Q. Did you serve any subject letters on any other DEA agents

03:00PM 17 who worked at the Buffalo office as part of your

03:00PM 18 investigation?

03:00PM 19 A. I recall serving one.

03:00PM 20 Q. Okay. That was to Joe Palmieri, correct?

03:00PM 21 A. Yes.

03:00PM 22 Q. And Mr. Palmieri, we've heard his name before, he was a

03:00PM 23 task force officer assigned to the DEA Buffalo office?

03:00PM 24 A. Yes.

03:00PM 25 Q. And he was somebody who was also associated with

03:00PM 1 Mr. Bongiovanni as a partner for several years during the
03:00PM 2 time period you were investigating?

03:00PM 3 A. Yes.

03:00PM 4 Q. Okay. So there were other people in the DEA office under
03:00PM 5 investigation at the same time you were working this case,
03:00PM 6 correct?

03:00PM 7 A. Palmieri, correct.

03:01PM 8 Q. All right. And there were also other agents that were
03:01PM 9 being investigated at that same time to your awareness,
03:01PM 10 correct?

03:01PM 11 A. Not that I'm aware of.

03:01PM 12 Q. So you don't know of any other agents that were being
03:01PM 13 served subject letters or being investigated by OIG at that
03:01PM 14 time?

03:01PM 15 A. No.

03:01PM 16 Q. Okay. So to prepare for this March 2019 interview that
03:01PM 17 you conducted at the U.S. Attorney's Office, you did a couple
03:01PM 18 of different things before you went into the interview,
03:01PM 19 correct?

03:01PM 20 A. Yes.

03:01PM 21 Q. Like, you talked about how you called Agent Bongiovanni
03:01PM 22 and invited him into the interview, correct?

03:01PM 23 A. Yes.

03:01PM 24 Q. But before you did that, you took a couple of
03:01PM 25 investigative steps to orient yourself to potential questions

03:01PM 1 you may want to ask him, right?

03:01PM 2 A. Yes.

03:01PM 3 Q. And you conducted your own investigation into the
03:01PM 4 allegations, correct?

03:01PM 5 A. Yes.

03:01PM 6 Q. Because that's good police practice, correct?

03:01PM 7 A. Yes.

03:01PM 8 Q. So, with regard to Mr. Bongiovanni's DEA cell phone, you
03:02PM 9 talked on your direct testimony about phone records that were
03:02PM 10 recovered regarding Mr. Bongiovanni's cell phone, right?

03:02PM 11 A. We reviewed them, yes.

03:02PM 12 Q. Yeah. But that's not something you reviewed prior to
03:02PM 13 your March 2019 interview, correct?

03:02PM 14 A. Correct.

03:02PM 15 Q. So, whatever we talked about today happened after your
03:02PM 16 March 2019 interview?

03:02PM 17 A. Yes.

03:02PM 18 Q. It happened after your June 2019 interview at his house,
03:02PM 19 correct?

03:02PM 20 A. Yes.

03:02PM 21 Q. It happened years after, right?

03:02PM 22 A. I'm not sure about years, I don't --

03:02PM 23 Q. Well, when did you first review the phone records that
03:02PM 24 you were testifying to today?

03:02PM 25 A. I don't recall the exact date on that.

03:02PM 1 Q. I mean, are we talking about yesterday?

03:02PM 2 A. No.

03:02PM 3 Q. Are we talking about a year ago?

03:02PM 4 A. It's been years since I've left the DOJ. I -- I don't
03:02PM 5 recall when we received the phone records, or when my first
03:02PM 6 review of them was.

03:02PM 7 Q. Okay. But you know in any event, your review of those
03:03PM 8 records happened after the March 2019 interview?

03:03PM 9 A. Yes.

03:03PM 10 Q. It happened after the June 2019 interview?

03:03PM 11 A. I can't say for sure, but --

03:03PM 12 Q. Okay. But you just don't recall at this point?

03:03PM 13 A. Correct.

03:03PM 14 Q. And you testified to several text messages as well; is
03:03PM 15 that right?

03:03PM 16 A. Yes.

03:03PM 17 Q. Those text messages were not something that you reviewed
03:03PM 18 prior to your March 2019 interview, right?

03:03PM 19 A. Correct.

03:03PM 20 Q. And they weren't something you reviewed prior to your
03:03PM 21 June 2019 interview, correct?

03:03PM 22 A. Correct.

03:03PM 23 Q. So, with regard to the DEA cell phone, your understanding
03:03PM 24 was that Mr. Bongiovanni, like every other agent in the DEA,
03:03PM 25 has a cell phone that's issued to him by the organization,

03:03PM 1 correct?

03:03PM 2 A. Yes.

03:03PM 3 Q. And so as part of your investigation, when did you first
03:03PM 4 get assigned to this case?

03:03PM 5 A. August of 2018.

03:03PM 6 Q. All right. So, Mr. Bongiovanni, back in August of 2018,
03:03PM 7 is still working at the DEA, correct?

03:03PM 8 A. Yes.

03:03PM 9 Q. He's not going to retire until February 1st of 2019?

03:04PM 10 A. I don't know what his retirement plans were at that time.

03:04PM 11 Q. Okay. But you understood that he did retire from the DEA
03:04PM 12 in February of 2019, correct?

03:04PM 13 A. Yes.

03:04PM 14 Q. And so as far as, you know, that's concerned, you started
03:04PM 15 on this case in August, right? So that's August, September,

03:04PM 16 October, November, December, January, February 1st he

03:04PM 17 retires. So that's six months before his retirement,

03:04PM 18 correct?

03:04PM 19 A. Yes.

03:04PM 20 Q. And you were aware of the fact that there are allegations
03:04PM 21 at that point in time that he had an inappropriate

03:04PM 22 relationship with Peter Gerace as alleged in the case,

03:04PM 23 correct?

03:04PM 24 A. Yes.

03:04PM 25 Q. You were also aware of a memoranda that we went through

03:04PM 1 where he referenced text messages that he exchanged between
03:04PM 2 Peter Gerace and explained what was happening in those text
03:04PM 3 messages?

03:04PM 4 A. Yes.

03:04PM 5 Q. And you reviewed those memoranda, correct?

03:04PM 6 A. Yes.

03:04PM 7 Q. So you knew that there was contact between Peter Gerace

03:04PM 8 and Joe Bongiovanni occurring on the DEA cell phone that he
03:04PM 9 possessed, correct?

03:04PM 10 A. I don't know where that contact was occurring.

03:04PM 11 Q. Okay. Well, you knew was happening on a phone, right?

03:05PM 12 A. Correct.

03:05PM 13 Q. And at the time you knew that he was issued a DEA cell
03:05PM 14 phone, correct?

03:05PM 15 A. Yes.

03:05PM 16 Q. So, you never made any efforts to seize Mr. Bongiovanni's
03:05PM 17 DEA cell phone prior to his retirement date, correct?

03:05PM 18 A. Correct.

03:05PM 19 Q. In fact, you only asked about his DEA cell phone after
03:05PM 20 his retirement, correct?

03:05PM 21 A. Yes.

03:05PM 22 Q. The DEA cell phone that he possessed, that's government
03:05PM 23 property, right?

03:05PM 24 A. Yes.

03:05PM 25 Q. So you can take that at any time, correct?

03:05PM 1 A. Yes.

03:05PM 2 Q. You don't require a search warrant to get that phone from

03:05PM 3 Mr. Bongiovanni, correct?

03:05PM 4 A. Correct.

03:05PM 5 Q. You can go to the DEA office and request the phone

03:05PM 6 records for that phone, correct?

03:05PM 7 A. Yes.

03:05PM 8 Q. You don't require a search warrant for that either?

03:05PM 9 A. Correct.

03:05PM 10 Q. But you didn't take any of those steps prior to his

03:05PM 11 retirement?

03:05PM 12 A. Correct.

03:05PM 13 Q. You didn't take any of those steps prior to your March

03:05PM 14 2019 interview?

03:05PM 15 A. Correct.

03:05PM 16 Q. With the exception of asking for his cell phone after he

03:05PM 17 already left the DEA, correct?

03:05PM 18 A. Correct.

03:05PM 19 Q. And I think you understood that after you made that

03:05PM 20 request following his retirement, you found out that the

03:05PM 21 phone had been wiped; is that right?

03:06PM 22 A. Yes.

03:06PM 23 Q. We've heard a couple things about wiping.

03:06PM 24 You understood that it was DEA policy that when an agent

03:06PM 25 turns in a phone, that phone is cleared of its data, correct?

03:06PM 1 A. I'm not sure of that policy at all.

03:06PM 2 Q. You're not sure of that policy?

03:06PM 3 A. No.

03:06PM 4 Q. Have you turned in a phone when you worked for the DOJ,

03:06PM 5 sir?

03:06PM 6 A. Yes.

03:06PM 7 Q. Did it contain information that was proprietary to the

03:06PM 8 DOJ?

03:06PM 9 A. I turned in my cell phone, I don't recall any policy

03:06PM 10 specific to wiping it.

03:06PM 11 Q. Okay. So you don't know what the DEA policy was?

03:06PM 12 A. Correct.

03:06PM 13 Q. Okay. So you did review the text messages after the

03:06PM 14 fact; is that right?

03:06PM 15 A. Yes.

03:06PM 16 Q. And you'd agree with me that your review of those text

03:06PM 17 messages, there was no discussion about bribes, correct?

03:06PM 18 A. Correct.

03:06PM 19 Q. There's no discussion involving legal activity, correct?

03:06PM 20 A. That would be correct.

03:06PM 21 Q. The text messages we're talking about is about almost 400

03:07PM 22 text messages over the course of that period of time where

03:07PM 23 the cell phone messages exist; is that right?

03:07PM 24 A. Almost, yes.

03:07PM 25 Q. And that was between 2015 to roughly 2018, 2019?

03:07PM 1 A. Yes.

03:07PM 2 Q. The messages that you reviewed, there were more messages
03:07PM 3 on that phone from Peter Gerace to Joe Bongiovanni than the
03:07PM 4 other way around, correct?

03:07PM 5 A. I didn't count the -- I didn't count the numbers.

03:07PM 6 Q. Well, you talked about, sir, about the importance in your
03:07PM 7 investigation about knowing how often Peter Gerace and Joe
03:07PM 8 Bongiovanni would interact, correct?

03:07PM 9 A. Yes.

03:07PM 10 Q. And one of the questions that you asked in the interview
03:07PM 11 was whether Mr. Bongiovanni initiated contact, quote,
03:07PM 12 unquote, with Peter Gerace, right?

03:07PM 13 A. Yes.

03:07PM 14 Q. And it was important, as you testified on direct, to know
03:07PM 15 how often that may have occurred, right?

03:07PM 16 A. Yes.

03:07PM 17 Q. But you never counted?

03:07PM 18 A. I didn't count the back and forth between them, no.

03:08PM 19 Q. If you did count, do you think you would have found
03:08PM 20 consistent with the messages that Peter Gerace contacted Joe
03:08PM 21 Bongiovanni more often than the other way around?

03:08PM 22 A. I don't know what I would have found.

03:08PM 23 Q. You just don't know?

03:08PM 24 A. Correct.

03:08PM 25 Q. Because you never looked?

03:08PM 1 A. I didn't add them up, correct.

03:08PM 2 Q. When you reviewed these messages, did you see points in

03:08PM 3 time where Mr. Bongiovanni did not respond to Peter Gerace?

03:08PM 4 A. Yes.

03:08PM 5 Q. And that was more than one time, right?

03:08PM 6 A. I can't recall the exact number, but yes.

03:08PM 7 Q. Did you not count those either, sir?

03:08PM 8 A. No.

03:08PM 9 Q. All right. So, let's move on to a different topic.

03:08PM 10 One of the things that you learned throughout the course

03:08PM 11 of this investigation is that there are allegations that Joe

03:08PM 12 Bongiovanni used illegal narcotics during the time he was a

03:08PM 13 DEA agent, correct?

03:08PM 14 A. I'm sorry, can you repeat that.

03:08PM 15 Q. You learned during the course of your investigation that

03:08PM 16 there were allegations that Joe Bongiovanni used illegal

03:09PM 17 narcotics during the time he was a DEA agent, correct?

03:09PM 18 A. Yes.

03:09PM 19 Q. And one of the steps that you took to verify whether

03:09PM 20 there was information relevant to that was to look at drug

03:09PM 21 testing records that the DEA possessed, correct?

03:09PM 22 A. I requested them, yes.

03:09PM 23 Q. Because it was your understanding that the DEA conducts

03:09PM 24 drug testing of its agents, correct?

03:09PM 25 A. It does to my understanding, yes.

03:09PM 1 Q. And so you asked Mr. DiCarlo to try to track down those
03:09PM 2 records for you; is that right?
03:09PM 3 A. Yes.
03:09PM 4 Q. And Mr. DiCarlo reported back to you, right?
03:09PM 5 A. Yes.
03:09PM 6 Q. And there were no records of positive results involving a
03:09PM 7 drug test from Joe Bongiovanni, right?
03:09PM 8 A. There are no records at all.
03:09PM 9 Q. And that was for the duration of his entire career?
03:09PM 10 A. Yes.
03:09PM 11 Q. So, another thing that you took a look at was you took a
03:09PM 12 look at whether or not T.S., which was a name that we were
03:09PM 13 talking about on direct, was ever a DEA confidential source;
03:10PM 14 is that right?
03:10PM 15 A. Yes.
03:10PM 16 Q. Because that's something that came up during the course
03:10PM 17 of the investigation, right?
03:10PM 18 A. Yes.
03:10PM 19 Q. And you looked into the records with regard to that,
03:10PM 20 right?
03:10PM 21 A. I requested them, yes.
03:10PM 22 Q. And one of the things that you received back in response
03:10PM 23 was a report that was in the possession of the DEA in the
03:10PM 24 New York City office?
03:10PM 25 A. I don't recall if it was a report, but I did receive

03:10PM 1 something back, yes.

03:10PM 2 Q. Correct. And so your understanding was is that when the
03:10PM 3 DEA signs up someone as a confidential source, that's
03:10PM 4 something that requires documentation; is that right?

03:10PM 5 A. Yes.

03:10PM 6 Q. And it's a closely guarded secret, correct?

03:10PM 7 A. Yes.

03:10PM 8 Q. Your understanding is that the process is, is that when
03:10PM 9 the request for the CS is approved locally for an individual
03:10PM 10 agent requesting that someone gets signed up as a CS, it's
03:10PM 11 then sent down to New York City?

03:10PM 12 A. I'm not exactly sure of the whole process or the policy
03:10PM 13 on it as I sit here today.

03:10PM 14 Q. You don't know the DEA's policy with regard to how a CS
03:10PM 15 request is routed?

03:10PM 16 A. Not as I sit here today, no.

03:11PM 17 Q. Did you ever talk to anyone about it?

03:11PM 18 A. I can't recall if I did or didn't.

03:11PM 19 Q. Did you talk to Frank DiCarlo about it?

03:11PM 20 A. I can't recall any specific conversation with him about
03:11PM 21 it.

03:11PM 22 Q. Okay. Okay. Well, as far as the CS records are
03:11PM 23 concerned, you understand that New York City keeps those
03:11PM 24 records under lock and key; is that right?

03:11PM 25 A. I hope so, yes.

03:11PM 1 Q. And your understanding is that there's very limited
03:11PM 2 access to those records, correct?

03:11PM 3 A. Yes.

03:11PM 4 Q. That individual agents just can't go query the DEA system
03:11PM 5 as to, hey, is this person a confidential source?

03:11PM 6 A. I'm not sure what the -- I don't -- I don't believe so,
03:11PM 7 correct.

03:11PM 8 Q. I'm sorry, can you --

03:11PM 9 A. I don't believe they can query for that information,
03:11PM 10 correct.

03:11PM 11 Q. Okay. So the record that you got back indicated that
03:11PM 12 T.S. was a confidential source for the DEA from January of
03:11PM 13 2009 to September of 2009?

03:11PM 14 A. I believe so.

03:11PM 15 Q. And Mr. Bongiovanni wasn't the case agent on the case
03:12PM 16 that T.S. was signed up as a source, correct?

03:12PM 17 A. I don't recall the specific case, no.

03:12PM 18 **MR. SINGER:** Just one moment, Judge.

03:12PM 19 Ms. Champoux, will you mind bringing up Government
03:12PM 20 Exhibit 16, please? And if we can scroll to the -- I think
03:12PM 21 it's the third page, please.

03:12PM 22 And if we can expand on that section.

03:12PM 23 **BY MR. SINGER:**

03:12PM 24 Q. So this is the record we've just been talking about for a
03:12PM 25 couple minutes, correct, sir?

03:12PM 1 A. Thank you.

03:12PM 2 Q. And as far as the agents that are involved in the case,
03:12PM 3 do you see them down at the bottom?

03:12PM 4 A. I do.

03:12PM 5 Q. None of those people are Joe Bongiovanni, correct?

03:12PM 6 A. That's correct.

03:12PM 7 Q. Your understanding was that Mr. T.S. was not signed up to
03:13PM 8 investigate Ron Serio, right?

03:13PM 9 A. As it relates to his role as a DEA operations, I don't
03:13PM 10 recall what he was -- what his case file was on that.

03:13PM 11 Q. Okay. Well, you're familiar with the fact that the Ron
03:13PM 12 Serio investigation wasn't opened until earliest November of
03:13PM 13 2012, correct?

03:13PM 14 A. I'm not really familiar with the Ron Serio investigation.

03:13PM 15 Q. Okay. You're not familiar with that at all?

03:13PM 16 A. Not -- not particularly, no.

03:13PM 17 Q. All right. You didn't find any evidence that Joe
03:13PM 18 Bongiovanni was in contact with T.S. during the entirety of
03:13PM 19 his career, correct?

03:13PM 20 A. In the documents I reviewed, I didn't see any.

03:13PM 21 **MR. SINGER:** You can bring that down, Ms. Champoux,
03:13PM 22 thank you.

03:13PM 23 **BY MR. SINGER:**

03:13PM 24 Q. So one of the other things that we talked about in this
03:13PM 25 case is the DARTS system. You have a familiarity with what

03:14PM 1 DARTS is, correct?

03:14PM 2 A. Yes.

03:14PM 3 Q. So DARTS is a deconfliction database; is that right?

03:14PM 4 A. Yes.

03:14PM 5 Q. It's a place where phone numbers are kept that are run on
03:14PM 6 particular targets and subjects of investigation?

03:14PM 7 A. Yes.

03:14PM 8 Q. And it's something that is specific to the DEA, correct?

03:14PM 9 A. Yes.

03:14PM 10 Q. And the DARTS system, unlike the CS system that we were
03:14PM 11 just talking about, that's something that individual agents
03:14PM 12 do have access to, correct?

03:14PM 13 A. Yes.

03:14PM 14 Q. And people can perform searches inside the DARTS system
03:14PM 15 for particular names or numbers?

03:14PM 16 A. Yes.

03:14PM 17 Q. And, so, prior to the March 2019 interview, you performed
03:14PM 18 a search of the DARTS system to determine whether or not Joe
03:14PM 19 Bongiovanni ever searched for names or numbers of people
03:14PM 20 associated with the Ron Serio drug-trafficking organization,
03:14PM 21 correct?

03:14PM 22 A. I requested information to the DEA at the request of
03:14PM 23 Curtis Ryan.

03:14PM 24 Q. Okay. And when you got back the results of that, no
03:14PM 25 records were found indicating that Joe Bongiovanni did any

03:15PM 1 search into DARTS for those people, correct?

03:15PM 2 A. That's correct.

03:15PM 3 Q. You also took a look into another person by the name of

03:15PM 4 Michael Sinatra; is that right?

03:15PM 5 A. Yes.

03:15PM 6 Q. And Mike Sinatra, you also asked the DEA to search for

03:15PM 7 records indicating whether or not Joe Bongiovanni had

03:15PM 8 searched the DARTS system for his name and number, correct?

03:15PM 9 A. Yes.

03:15PM 10 Q. And once again, nothing came back to indicate that Joe

03:15PM 11 Bongiovanni conducted a search like that?

03:15PM 12 A. Correct.

03:15PM 13 Q. You also did a similar request with regard to the Peter

03:15PM 14 Gerace and people associated with him and his

03:15PM 15 drug-trafficking organization, correct?

03:15PM 16 A. Is there anybody specific? I don't recall any

03:15PM 17 specific --

03:15PM 18 Q. Do you recall a person by the name of John Ermin?

03:15PM 19 A. Yes.

03:15PM 20 Q. He was somebody who was associated with Peter Gerace,

03:15PM 21 correct?

03:15PM 22 A. Yes.

03:15PM 23 Q. And you did a search of the system to determine whether

03:16PM 24 or not Joe Bongiovanni ever performed a search of the system

03:16PM 25 for him in DARTS?

03:16PM 1 A. I don't recall a DARTS request for that.

03:16PM 2 Q. You don't recall making the request, or you don't recall
03:16PM 3 the result?

03:16PM 4 A. Either one.

03:16PM 5 **MR. SINGER:** Just one moment, Judge.

03:16PM 6 I don't know when you're thinking about the afternoon
03:17PM 7 break, Judge. I can continue if you want to, but I just don't
03:17PM 8 want to hold anyone up.

03:17PM 9 **THE COURT:** I'm thinking sometime around 3:30 --

03:17PM 10 **MR. SINGER:** I'll keep going.

03:17PM 11 **THE COURT:** -- is a good time to balance the two
03:17PM 12 halves.

03:17PM 13 **MR. SINGER:** That's perfectly fine, Judge.

03:17PM 14 **BY MR. SINGER:**

03:17PM 15 Q. So, Mr. Carpenter, so another thing that you talked about
03:17PM 16 was the memoranda that you reviewed regarding, sorry --
03:17PM 17 strike that.

03:17PM 18 Another thing you discussed was the memoranda that

03:17PM 19 Mr. Bongiovanni provided towards the end of his tenure at
03:17PM 20 DEA; is that right?

03:17PM 21 A. Yes.

03:17PM 22 Q. And he provided three different memos with regard to his
03:17PM 23 interactions involving Peter Gerace, as well as Tony's
03:17PM 24 Casullo's interactions with someone associated with Peter
03:17PM 25 Gerace, correct?

03:17PM 1 A. Yes.

03:17PM 2 Q. So with regard to one of those memoranda, it was in
03:17PM 3 January of 2019 just before Mr. Bongiovanni left the DEA that
03:18PM 4 he provided a memorandum regarding Tony Casullo; is that
03:18PM 5 right?

03:18PM 6 A. I don't recall the date, but I do recall him providing a
03:18PM 7 memo, yes.

03:18PM 8 **MR. SINGER:** Ms. Champoux, can we bring up Government
03:18PM 9 Exhibit 99, please?

03:18PM 10 **BY MR. SINGER:**

03:18PM 11 Q. So, does this help refresh your memory as to the
03:18PM 12 memoranda that was submitted regarding Tony Casullo?

03:18PM 13 A. Thank you.

03:18PM 14 Q. So with regard to this particular memoranda,
03:18PM 15 Mr. Bongiovanni talks about a number of things; is that
03:18PM 16 right?

03:18PM 17 A. Yes.

03:18PM 18 **MR. SINGER:** So, Ms. Champoux, if we can please
03:18PM 19 expand into the first paragraph of this memo.

03:18PM 20 **BY MR. SINGER:**

03:18PM 21 Q. Can you please read that for the jury?

03:18PM 22 A. S.A. Joseph Bongiovanni is writing to inform you of
03:18PM 23 information that he has acquired regarding the social
03:18PM 24 affiliation and recent communications with Peter Gerace by
03:19PM 25 S.A. Anthony Casullo, and S.A.'s Casullo brother-in-law, Phil

03:19PM 1 Domiano.

03:19PM 2 In the past, S.A. Bongiovanni has verbally informed you,
03:19PM 3 my group supervisor, Greg Yensan, and our ASAC, David T. Zon,
03:19PM 4 of information confirming the friendship of Domiano, Casullo,
03:19PM 5 and Gerace.

03:19PM 6 Furthermore, S.A. Bongiovanni has attached information
03:19PM 7 confirming that Domiano was a former manager of Pharaoh's
03:19PM 8 Gentlemen's Club in Cheektowaga, New York on behalf of
03:19PM 9 Gerace.

03:19PM 10 Q. So the first paragraph in that particular memorandum is
03:19PM 11 talking about a familial relationship between Special Agent
03:19PM 12 Tony Casullo and Phil Domiano?

03:19PM 13 A. Yes.

03:19PM 14 Q. And you understood it, based on your reading of the
03:19PM 15 memoranda, that Phil Domiano is related to Tony Casullo by
03:20PM 16 marriage?

03:20PM 17 A. Yes.

03:20PM 18 Q. Phil Domiano, more specifically, is his brother-in-law,
03:20PM 19 correct?

03:20PM 20 A. I'm sorry, whose brother?

03:20PM 21 Q. So Phil Domiano -- I'm sorry, I asked that poorly.

03:20PM 22 Phil Domiano is related to Tony Casullo as Tony Casullo's
03:20PM 23 brother-in-law.

03:20PM 24 A. Brother-in-law?

03:20PM 25 Q. Yes.

03:20PM 1 A. Correct.

03:20PM 2 Q. And so the relationship is is that Tony Casullo is
03:20PM 3 married to Phil Domiano's sister?

03:20PM 4 A. Yes, that's how -- that's how it works.

03:20PM 5 Q. Okay. All right. So this is something that was raised
03:20PM 6 to your attention as well, correct?

03:20PM 7 A. Yes.

03:20PM 8 Q. And this is something that the DEA had potential concerns
03:20PM 9 about, correct?

03:20PM 10 A. I'm not sure if they did or didn't.

03:20PM 11 Q. Okay. That was not part of your investigation?

03:20PM 12 A. No.

03:20PM 13 **MR. SINGER:** Okay. Ms. Champoux, can we please
03:20PM 14 un-expand out of that. And if we can expand -- I'm sorry. If
03:20PM 15 we can move on to the second page. And stop right there.

03:21PM 16 **BY MR. SINGER:**

03:21PM 17 Q. So attached to this particular memoranda that you
03:21PM 18 reviewed were a number of Facebook posts; is that right, sir?

03:21PM 19 A. I think specific Facebook Message posts.

03:21PM 20 Q. And these related to Phil Domiano, correct?

03:21PM 21 A. Yes.

03:21PM 22 Q. This is something that Special Agent Bongiovanni provided
03:21PM 23 as part of his memo to his supervisor, correct?

03:21PM 24 A. Yes.

03:21PM 25 Q. And it indicated contact that Peter Gerace had with Phil

03:21PM 1 Domiano; is that correct?

03:21PM 2 A. Yes.

03:21PM 3 Q. So, for instance, in this first page that we're looking
03:21PM 4 at, it's indicating that Peter Gerace is feeling excited with
03:21PM 5 Domiano at the Vegas Golden Knights arena; is that right?

03:21PM 6 A. Yes.

03:21PM 7 Q. And that particular post is dated March 2nd, 2018?

03:21PM 8 A. Correct.

03:21PM 9 **MR. SINGER:** You can scroll down to the next page,
03:21PM 10 Ms. Champoux.

03:21PM 11 **BY MR. SINGER:**

03:21PM 12 Q. And this particular post, it's indicating that Peter
03:22PM 13 Gerace was eating dinner at Andiamo, Las Vegas in September
03:22PM 14 of 2017?

03:22PM 15 A. Yes.

03:22PM 16 Q. And that his great friends with Domiano?

03:22PM 17 A. Yes.

03:22PM 18 **MR. SINGER:** Can you go to the next page,
03:22PM 19 Ms. Champoux?

03:22PM 20 **BY MR. SINGER:**

03:22PM 21 Q. This is another post by Phil Domiano; is that correct?

03:22PM 22 A. Yes.

03:22PM 23 Q. And that's dated August 20th of 2017?

03:22PM 24 A. Yes.

03:22PM 25 **MR. SINGER:** Go to the next page, Ms. Champoux.

03:22PM 1 **BY MR. SINGER:**

03:22PM 2 Q. It looks like in response to this post, Peter Gerace
03:22PM 3 posted a message?

03:22PM 4 A. Yes.

03:22PM 5 **MR. SINGER:** Can we go on to the next page, please?

03:22PM 6 **BY MR. SINGER:**

03:22PM 7 Q. So in this particular post, Mr. Domiano is indicating on
03:22PM 8 March 30th, 2014 that he's back in Buffalo; is that right?

03:22PM 9 A. Yes.

03:22PM 10 Q. And that he's managing Pharaoh's Gentlemen's Club at
03:22PM 11 999 Aero Drive?

03:22PM 12 A. Yes.

03:22PM 13 Q. And that's something that was liked by Peter Gerace?

03:23PM 14 A. Yes.

03:23PM 15 Q. And you understood Pharaoh's Gentlemen's Club to be owned
03:23PM 16 by Peter Gerace?

03:23PM 17 A. Yes.

03:23PM 18 Q. And so it looks like in this situation, Phil Domiano,
03:23PM 19 Tony Casullo's brother-in-law, is a manager of Pharaoh's
03:23PM 20 Gentlemen's Club?

03:23PM 21 A. Yes.

03:23PM 22 **MR. SINGER:** Can we go on to the next page, please?

03:23PM 23 **BY MR. SINGER:**

03:23PM 24 Q. It looks like there's a picture posted; is that right?

03:23PM 25 A. Yes.

03:23PM 1 Q. It looks like Phil Domiano is pictured in a picture with
03:23PM 2 Peter Gerace?

03:23PM 3 A. Yes.

03:23PM 4 **MR. SINGER:** Go on to the next page, please. And the
03:23PM 5 page after, Ms. Champoux. Thank you.

03:23PM 6 **BY MR. SINGER:**

03:23PM 7 Q. Another post on Facebook regarding Peter Gerace?

03:23PM 8 A. Yes.

03:23PM 9 **MR. SINGER:** Go to the next page, Ms. Champoux. Stop
03:23PM 10 there.

03:23PM 11 **BY MR. SINGER:**

03:23PM 12 Q. Looked like there's another connection vis-à-vis this
03:24PM 13 case, Joe Bella. Do you know who that is, sir?

03:24PM 14 A. No.

03:24PM 15 Q. Does it appear like there's a Facebook friends
03:24PM 16 relationship at least that exists between Joe Bella and Phil
03:24PM 17 Domiano?

03:24PM 18 A. Yes.

03:24PM 19 **MR. SINGER:** Can you go to the next page,
03:24PM 20 Ms. Champoux?

03:24PM 21 **THE WITNESS:** Actually, can I see that again?

03:24PM 22 **BY MR. SINGER:**

03:24PM 23 Q. Sure. Does it appear to you, based on your review of
03:24PM 24 this information, that there's a Facebook friend relationship
03:24PM 25 at least between Domiano and Joe Bella?

03:24PM 1 A. I can't tell with this if the add friend is they're not
03:24PM 2 friends, or what that relationship is indicating.

03:24PM 3 Q. Okay. You're familiar with Facebook generally, right?
03:24PM 4 You're not -- you're not young enough where you're just doing
03:24PM 5 SnapChat, right?

03:24PM 6 A. It's been many years since I've used Facebook.

03:24PM 7 Q. Okay.

03:24PM 8 A. So I'm familiar with it, but I'm not familiar with --
03:24PM 9 it's been years, probably 2016.

03:24PM 10 Q. So -- so back -- going back to 2016, maybe I'm dating
03:25PM 11 myself on these questions, but when you bring up a list of
03:25PM 12 who someone's friends with on Facebook, it spits out a whole
03:25PM 13 list of people; do you recall that?

03:25PM 14 A. This -- this is -- this is Domiano's friends list?

03:25PM 15 Q. That's correct.

03:25PM 16 A. Okay. Thank you.

03:25PM 17 Q. And so if you do it to your own profile, you have the
03:25PM 18 option of adding a friend by hitting a button?

03:25PM 19 A. Understood. Thank you.

03:25PM 20 Q. Okay. So does that help --

03:25PM 21 A. Yes.

03:25PM 22 Q. -- clear up the confusion?

03:25PM 23 A. Yes, thank you.

03:25PM 24 Q. No problem.

03:25PM 25 **MR. SINGER:** And if we can scroll down to the next

03:25PM 1 page, Ms. Champoux. And to the page after that? And to the
03:25PM 2 page after that.

03:25PM 3 **BY MR. SINGER:**

03:25PM 4 Q. Are you familiar with this particular picture?

03:25PM 5 A. Yes.

03:25PM 6 Q. This is the reunion picture for Saint Joe's high school
03:25PM 7 reunion back in 2015?

03:25PM 8 A. Yes.

03:25PM 9 Q. And you're under the understanding that Tony Casullo and
03:25PM 10 Peter Gerace are pictured in that same photograph, correct?

03:26PM 11 A. Yes.

03:26PM 12 Q. They attended the same reunion, correct?

03:26PM 13 A. Yes, sir.

03:26PM 14 Q. Because they attended the same high school class?

03:26PM 15 A. Yes.

03:26PM 16 **MR. SINGER:** Move down to the next photo, please,
03:26PM 17 Ms. Champoux.

03:26PM 18 **BY MR. SINGER:**

03:26PM 19 Q. It looks like those two people are identified in this
03:26PM 20 photograph that's blown up?

03:26PM 21 A. Yes.

03:26PM 22 **MR. SINGER:** If we go to the last page.

03:26PM 23 **BY MR. SINGER:**

03:26PM 24 Q. That looks like that's another blow-up?

03:26PM 25 A. Correct.

03:26PM 1 **MR. SINGER:** Okay. If we can go back to the first
03:26PM 2 page of the memo, Ms. Champoux.

03:26PM 3 **BY MR. SINGER:**

03:26PM 4 Q. So the purpose of this memo was not just to address
03:26PM 5 Casullo's relationship with Phil Domiano, correct?

03:26PM 6 **MS. CHALBECK:** Objection, Your Honor. I -- I don't
03:26PM 7 think the witness can answer what the defendant's purpose was
03:26PM 8 in offering the memo. Lacks personal knowledge.

03:26PM 9 **THE COURT:** Yeah, I think sustained.

03:26PM 10 **MR. SINGER:** Certainly.

03:26PM 11 **THE COURT:** But you can ask general questions about
03:26PM 12 that document.

03:26PM 13 **MR. SINGER:** No problem.

03:26PM 14 Ms. Champoux, can we please expand on this one
03:26PM 15 particular paragraph?

03:27PM 16 **BY MR. SINGER:**

03:27PM 17 Q. Mr. Carpenter, can you please read that to the jury?

03:27PM 18 A. Also, S.A. Casullo's actions approximately eight months
03:27PM 19 ago by advising AUSA Joseph Tripi that S.A. Bongiovanni was a
03:27PM 20 racist in the presence of G.S. James McHugh was completely
03:27PM 21 unprofessional.

03:27PM 22 S.A. Casullo advised AUSA Tripi that Bongiovanni told
03:27PM 23 Casullo approximately two years ago that he, Casullo -- that
03:27PM 24 he, quote, Casullo shouldn't investigate Italians, but should
03:27PM 25 investigate -- racial slurs, end quote.

03:27PM 1 S.A. Casullo did not advise his chain of command prior to
03:27PM 2 making these allegations and has ruined S.A. Bongiovanni's
03:27PM 3 character.

03:27PM 4 This incident was not documented within DEA, and no
03:28PM 5 investigation was conducted against S.A. Casullo.

03:28PM 6 S.A. Bongiovanni completely denies making these
03:28PM 7 statements.

03:28PM 8 Q. So we talked about purpose. But the memorandum doesn't
03:28PM 9 just discuss Tony Casullo's relationship with Domiano,
03:28PM 10 correct?

03:28PM 11 A. Correct.

03:28PM 12 Q. It also takes on the allegations that Tony Casullo levied
03:28PM 13 against Mr. Bongiovanni, correct?

03:28PM 14 A. Correct.

03:28PM 15 Q. Regarding those racial slurs that your investigation was
03:28PM 16 initiated to investigate?

03:28PM 17 A. Yes.

03:28PM 18 Q. And in this particular memo, he denies making those
03:28PM 19 statements, correct?

03:28PM 20 A. Yes.

03:28PM 21 **MR. SINGER:** Ms. Champoux, if we could expand the
03:28PM 22 bottom paragraph.

03:28PM 23 **BY MR. SINGER:**

03:28PM 24 Q. And, sir, could you please read that for the jury as
03:28PM 25 well?

03:28PM 1 A. S.A. Joseph Bongiovanni is forwarding this information
03:28PM 2 through the DEA chain of command because he knows that this
03:29PM 3 will be required to be disclosed to OPR and the AUSO office
03:29PM 4 in the WDNY based on the ongoing investigation of Gerace.

03:29PM 5 Should you need any additional information, please
03:29PM 6 contact S.A. Joseph Bongiovanni.

03:29PM 7 Thank you for your attention to this matter.

03:29PM 8 Q. So, with regard to Phil Domiano, did you investigate
03:29PM 9 Casullo with regard to his relationship to Phil Domiano?

03:29PM 10 A. I did not.

03:29PM 11 Q. Did you understand Phil Domiano to also have a nickname
03:29PM 12 of Vegas Phil?

03:29PM 13 A. I've never heard that.

03:29PM 14 Q. Are you aware of the relationship between Casullo and
03:29PM 15 Domiano at all?

03:29PM 16 A. I don't know to what extent, no.

03:29PM 17 Q. You just never looked into it?

03:30PM 18 A. Correct.

03:30PM 19 **MR. SINGER:** Ms. Champoux, if we can un-expand out of
03:30PM 20 this. Go to the second page.

03:30PM 21 I'm sorry, if we can bring that exhibit down.

03:30PM 22 Do you want to take a break, Judge?

03:30PM 23 **THE COURT:** Sure. It's as good a time any.

03:30PM 24 So, folks, please remember my instructions. Don't
03:30PM 25 communicate about the case with anyone including each other.

03:30PM 1 Don't make up your mind.

03:30PM 2 See you back here in about 15, 20 minutes.

03:30PM 3 (Jury excused at 3:30 p.m.)

03:30PM 4 **THE COURT:** Okay. Anything before we break,

03:30PM 5 Ms. Chalbeck?

03:30PM 6 **MS. CHALBECK:** Not the government.

03:31PM 7 **THE COURT:** Anything before we break?

03:31PM 8 **MR. SINGER:** No, Your Honor. Thank you.

03:31PM 9 **THE COURT:** Great. See you in about 15, 20 minutes.

03:31PM 10 **THE CLERK:** All rise.

03:31PM 11 (Off the record at 3:31 p.m.)

03:51PM 12 (Back on the record at 3:51 p.m.)

03:51PM 13 (Jury not present.)

03:51PM 14 **THE CLERK:** All rise.

03:51PM 15 **THE COURT:** Please be seated.

03:51PM 16 **THE CLERK:** We are back on the record for the

03:51PM 17 continuation of the jury trial in case number 19-cr-227,

03:51PM 18 United States of America versus Joseph Bongiovanni.

03:51PM 19 All counsel and parties are present.

03:51PM 20 **THE COURT:** Okay. Anything that we need to do before

03:51PM 21 we resume?

03:51PM 22 **MS. CHALBECK:** Not from the government, Judge.

03:51PM 23 **MR. SINGER:** No, Your Honor.

03:51PM 24 **THE COURT:** Okay. Let's bring them back, please,

03:51PM 25 Pat.

03:52PM 1 (Jury seated at 3:52 p.m.)

03:52PM 2 **THE COURT:** The record will reflect that all our
03:53PM 3 jurors are present again.

03:53PM 4 I remind the witness that he's still under oath.

03:53PM 5 And you may continue, Mr. Singer.

03:53PM 6 **MR. SINGER:** Thank you, Your Honor.

03:53PM 7 **BY MR. SINGER:**

03:53PM 8 Q. All right. So, Mr. Carpenter, I want to move on to a
03:53PM 9 different subject. So let's get back to the voluntary
03:53PM 10 interview that you conducted with Mr. Bongiovanni back in
03:53PM 11 March of 2019. All right?

03:53PM 12 So at that point in time, I think we reviewed,
03:53PM 13 Mr. Bongiovanni is retired from the DEA by a couple weeks,
03:53PM 14 several weeks at this point, correct?

03:53PM 15 A. Yes.

03:53PM 16 Q. And so you called him up to request whether or not he
03:53PM 17 wanted to come in and submit to an interview; is that right?

03:53PM 18 A. Yes.

03:53PM 19 Q. He was under no obligation to do that?

03:53PM 20 A. Correct.

03:53PM 21 Q. Like, he didn't work for the DEA anymore, so unlike other
03:53PM 22 agents who can't say no, he could say sorry, Dave, I just
03:53PM 23 don't feel like it?

03:53PM 24 A. Yes.

03:53PM 25 Q. But he said, you know what? Like, I'll submit to the

03:53PM 1 interview, correct?

03:53PM 2 A. Yes.

03:53PM 3 Q. And this was a little bit different than the June 2019

03:53PM 4 interview, correct?

03:53PM 5 A. How so?

03:53PM 6 Q. Well, it happened at the U.S. Attorney's Office, right?

03:54PM 7 A. Yes.

03:54PM 8 Q. You didn't call up a SWAT team to escort Mr. Bongiovanni

03:54PM 9 to the March interview, correct?

03:54PM 10 A. Correct.

03:54PM 11 Q. He was never placed in handcuffs, correct?

03:54PM 12 A. Correct.

03:54PM 13 Q. Guns were never drawn?

03:54PM 14 A. No.

03:54PM 15 Q. No flash bang grenades were used?

03:54PM 16 A. No.

03:54PM 17 Q. So a little different, correct?

03:54PM 18 A. Yes.

03:54PM 19 Q. Okay. So it's more of a professional business meeting;

03:54PM 20 is that a fair statement?

03:54PM 21 A. Yes.

03:54PM 22 Q. And you wanted to try to obtain some type of

03:54PM 23 incriminating statements from him at that point in time; is

03:54PM 24 that right?

03:54PM 25 A. I wanted to obtain the truth from him.

03:54PM 1 Q. All right. So, you have it in a conference room at the
03:54PM 2 U.S. Attorney's Office; is that right?

03:54PM 3 A. Yes.

03:54PM 4 Q. There wasn't any type of recording equipment that was
03:54PM 5 contained in that office, correct?

03:54PM 6 A. Correct.

03:54PM 7 Q. So you've done interviews with people at police stations
03:54PM 8 before, right?

03:54PM 9 A. Yes.

03:54PM 10 Q. And oftentimes, they have some type of recording device
03:54PM 11 in an interview room?

03:54PM 12 A. Yes, sir.

03:54PM 13 Q. Which takes both audio and video recordings of an
03:54PM 14 interview?

03:54PM 15 A. Yes.

03:55PM 16 Q. And -- and that's something that can later be played back
03:55PM 17 in a courtroom?

03:55PM 18 A. Yes.

03:55PM 19 Q. But that wasn't something that you took advantage of to
03:55PM 20 conduct this interview, correct?

03:55PM 21 A. Correct.

03:55PM 22 Q. You didn't have any other type of recording equipment
03:55PM 23 that you used that day to record the interview, correct?

03:55PM 24 A. Correct.

03:55PM 25 Q. And that's something that you have employed in other

03:55PM 1 aspects of this case; is that right?

03:55PM 2 A. Yes.

03:55PM 3 Q. So, for instance, do you remember interviewing another
03:55PM 4 DEA agent, Brian Chella?

03:55PM 5 A. Yes, sir.

03:55PM 6 Q. And that was in connection with this investigation as
03:55PM 7 well?

03:55PM 8 A. Yes.

03:55PM 9 Q. And you used a recording device for that -- for that
03:55PM 10 interview, correct?

03:55PM 11 A. Yes.

03:55PM 12 Q. But you didn't use one for him?

03:55PM 13 A. Correct.

03:55PM 14 Q. Sometimes, it comes up often, but we see on TV a lot of
03:55PM 15 state and local police officers wear body cams; are you
03:55PM 16 familiar with that?

03:55PM 17 A. Yes.

03:55PM 18 Q. And it kind of seems like it's ubiquitous nowadays. As
03:55PM 19 far as your agency was concerned at Office of Inspector
03:55PM 20 General, did you wear a body cam when you went out into the
03:55PM 21 field?

03:55PM 22 A. We did not have body cameras assigned to us at that time.

03:56PM 23 Q. All right. So the answer for the March 2019 interview is
03:56PM 24 no?

03:56PM 25 A. Correct.

03:56PM 1 Q. All right. So during this particular March 2019
03:56PM 2 interview, you took handwritten notes, correct?

03:56PM 3 A. Yes.

03:56PM 4 Q. And it's not a verbatim record, but it's something that
03:56PM 5 you took contemporaneously with the answers that you were
03:56PM 6 given?

03:56PM 7 A. Yes.

03:56PM 8 Q. And so that's something that helps inform you about what
03:56PM 9 responses you got in response to your questions?

03:56PM 10 A. Yes.

03:56PM 11 Q. And it also contains kind of a general outline of the
03:56PM 12 points that you raised in your questions to Joseph
03:56PM 13 Bongiovanni?

03:56PM 14 A. Yes.

03:56PM 15 Q. Were there other agents that accompanied you during the
03:56PM 16 course of the March 2019 interview?

03:56PM 17 A. OIG Agent David Fusco.

03:56PM 18 Q. So it was you, Agent Fusco, Joseph Bongiovanni, and
03:56PM 19 anybody else in the room?

03:56PM 20 A. No.

03:56PM 21 Q. So just the three of you?

03:56PM 22 A. Yes.

03:57PM 23 Q. And I know that agents sometimes in their notes, they
03:57PM 24 have a practice of putting quotation marks around direct
03:57PM 25 statements made by a person they're interviewing?

03:57PM 1 A. Yes.

03:57PM 2 Q. Is that a practice that you use to make note of

03:57PM 3 statements that are made by a person during the course of an
03:57PM 4 interview?

03:57PM 5 A. Yes.

03:57PM 6 Q. And that's something that you used here as a practice,
03:57PM 7 correct?

03:57PM 8 A. Yes.

03:57PM 9 Q. So if those handwritten notes that you took during the
03:57PM 10 interview contained those quotation marks, it would be
03:57PM 11 consistent with what came out of his mouth?

03:57PM 12 A. I recall some of them were exactly, and as you said, some
03:57PM 13 of them my notes were a summary of. So I would put them
03:57PM 14 around places, and I knew as I was going back to my notes
03:57PM 15 what it was, yes.

03:57PM 16 Q. Okay. You also produced a report of investigation,
03:57PM 17 correct?

03:57PM 18 A. Yes.

03:57PM 19 Q. And I think the OIG refers to it as an MOI, a memorandum
03:57PM 20 of investigation?

03:57PM 21 A. I believe so, yes.

03:57PM 22 Q. And so that's something that you produce not during the
03:57PM 23 interview, but after the interview?

03:58PM 24 A. Yes.

03:58PM 25 Q. And you produced one of those after this interview; is

03:58PM 1 that right?

03:58PM 2 A. Yes.

03:58PM 3 Q. Now, there was a delay in getting that particular
03:58PM 4 memorandum approved by your supervisor; is that right?

03:58PM 5 A. Yes.

03:58PM 6 Q. It was almost 60 days before it got approved?

03:58PM 7 A. I believe so, yes.

03:58PM 8 Q. What was the reason for that delay?

03:58PM 9 A. I can't recall specifically at the time what the
03:58PM 10 rationale was. But I recall at the time our office was
03:58PM 11 overwhelmed with -- overwhelmed with paperwork, a lot of
03:58PM 12 investigations were going on. I don't know what the specific
03:58PM 13 reason was.

03:58PM 14 Q. Was this memorandum approved before your June 6th 2019
03:58PM 15 interview of Agent Bongiovanni?

03:58PM 16 A. Yes.

03:58PM 17 Q. And so the purpose of the MOI is to document the
03:58PM 18 interview, correct?

03:58PM 19 A. Yes.

03:58PM 20 Q. The details of what happened as far as the questions you
03:58PM 21 asked?

03:58PM 22 A. Yes.

03:58PM 23 Q. And the responses that were given by Mr. Bongiovanni
03:58PM 24 during the interview?

03:58PM 25 A. Yes.

03:58PM 1 Q. And so it's a tool to help you remember what transpired
03:58PM 2 several years ago, correct?

03:58PM 3 A. Correct.

03:58PM 4 Q. Because this interview happened in 2019 --

03:59PM 5 A. Yes.

03:59PM 6 Q. -- right?

03:59PM 7 We're in 2024 at this point.

03:59PM 8 A. Yes.

03:59PM 9 Q. And I know you've investigated a lot of cases in the
03:59PM 10 interim; is that right?

03:59PM 11 A. Yes.

03:59PM 12 Q. That includes cases working for OIG, right?

03:59PM 13 A. Yes.

03:59PM 14 Q. And it also includes cases after you left the OIG's
03:59PM 15 office?

03:59PM 16 A. Correct.

03:59PM 17 Q. I think I said that you left the OIG's office in the
03:59PM 18 spring of 2020?

03:59PM 19 A. I left the Department of Justice in September of 2020,
03:59PM 20 yes.

03:59PM 21 Q. And then you left to go to where again? I'm sorry.

03:59PM 22 A. TIGTA. Treasury Inspector General for Tax
03:59PM 23 Administration.

03:59PM 24 Q. And you continued to investigate matters for that entity,
03:59PM 25 correct?

03:59PM 1 A. When I left OIG, I did, yes. Now I'm a supervisor there,
03:59PM 2 yes.

03:59PM 3 Q. And how long did you act as like a regular agent,
03:59PM 4 non-supervisor, investigating cases?

03:59PM 5 A. Over three years.

03:59PM 6 Q. And how many people do you think you've interviewed over
03:59PM 7 the course of your three years at TIGTA?

03:59PM 8 A. Yes. It's -- hundreds.

03:59PM 9 Q. Okay. So it's important to review both your notes and
04:00PM 10 the MOI to prepare yourself for your testimony today?

04:00PM 11 A. Yes.

04:00PM 12 Q. All right. So with regard to the particular topics, I
04:00PM 13 want to go through some of those with you.

04:00PM 14 So one of the things you remarked about on direct was
04:00PM 15 that you wanted to delve into the particular relationship
04:00PM 16 between Joe Bongiovanni and Peter Gerace; is that right?

04:00PM 17 A. Yes.

04:00PM 18 Q. And so you related on direct that they knew each other
04:00PM 19 from a familial relationship that went back to the time that
04:00PM 20 they were kids?

04:00PM 21 A. Yes.

04:00PM 22 Q. And that's something that continued when they were
04:00PM 23 teenagers and into their early 20s?

04:00PM 24 A. Yes.

04:00PM 25 Q. Mr. Bongiovanni indicated that he would hang out with

04:00PM 1 Peter Gerace bartending and that kind of thing in their 20s?

04:00PM 2 A. Yes.

04:00PM 3 Q. But then after he joined the DEA and moved away, the

04:00PM 4 relationship kind of deteriorated, right?

04:00PM 5 A. Yes.

04:00PM 6 Q. There's a period of time where they were not really

04:00PM 7 speaking too much?

04:00PM 8 A. Yes.

04:00PM 9 Q. And that was because Mr. Bongiovanni was not in Buffalo?

04:00PM 10 A. Correct.

04:00PM 11 Q. And Peter Gerace was still here?

04:01PM 12 A. Yes.

04:01PM 13 Q. And then Mr. Bongiovanni also indicated to you that when

04:01PM 14 he moved back to Buffalo and joined the DEA office in

04:01PM 15 Buffalo, there was a rekindling of that relationship, for

04:01PM 16 lack of a better word?

04:01PM 17 A. Yes.

04:01PM 18 Q. And they would have more contact than they had over the

04:01PM 19 last several years?

04:01PM 20 A. Yes.

04:01PM 21 Q. And that's something that continued on for a couple

04:01PM 22 years?

04:01PM 23 A. Yes.

04:01PM 24 Q. Now according to the -- according to your testimony,

04:01PM 25 Mr. Bongiovanni denied that he and Peter Gerace were close

04:01PM 1 friends, quote, unquote; is that right?

04:01PM 2 A. Yes.

04:01PM 3 Q. And so the close friends, that's not something that's a
04:01PM 4 direct quote inside your notes, correct?

04:01PM 5 A. Correct.

04:01PM 6 Q. That's not a term, actually, that Mr. Bongiovanni even
04:01PM 7 used to describe his relationship with Peter Gerace, correct?

04:01PM 8 A. I recall that -- I recall that phrase, yes, that's why
04:01PM 9 it's in the report.

04:01PM 10 Q. Well, do you recall the phrase "inner circle," sir?

04:01PM 11 A. That's in the notes, yes.

04:01PM 12 Q. Yeah. That's in the notes. And that's in the quotation
04:02PM 13 marks in your notes, correct?

04:02PM 14 A. I'd have to see my notes, but yes.

04:02PM 15 Q. I'm going to withdraw that question because it's actually
04:02PM 16 not in quotation marks, so my apologies on that.

04:02PM 17 But it's in your notes about the inner circle, correct?

04:02PM 18 A. Correct.

04:02PM 19 Q. And that, to your understanding, is a term

04:02PM 20 Mr. Bongiovanni used to describe his relationship vis-à-vis
04:02PM 21 Peter Gerace, right?

04:02PM 22 A. Yes.

04:02PM 23 Q. Whether or not Peter Gerace was in his inner circle or
04:02PM 24 not, he answered to that question, or I guess in response to
04:02PM 25 your question about how close he was, that Peter Gerace is

04:02PM 1 not in my inner circle, right?

04:02PM 2 A. He said he was not a close friend, correct.

04:02PM 3 Q. Did he say anything about him being in the inner circle,
04:02PM 4 sir?

04:02PM 5 A. No.

04:02PM 6 Q. He didn't say that at all?

04:02PM 7 A. He denied that.

04:02PM 8 Q. He denied that?

04:02PM 9 A. Yeah.

04:02PM 10 Q. But he used the term "inner circle." That's what I'm
04:02PM 11 getting at.

04:02PM 12 A. I recall close friends.

04:02PM 13 Q. You recall close friends and not inner circle?

04:03PM 14 A. Correct.

04:03PM 15 Q. Why is inner circle reflected in your handwritten notes
04:03PM 16 about the interview?

04:03PM 17 A. As I was taking notes, as I said earlier, it was a
04:03PM 18 summary of what was being said. And as I was writing it
04:03PM 19 down, that's what I wrote down. And then when I reviewed my
04:03PM 20 notes later, I recalled it being close friends.

04:03PM 21 Q. Okay. So, you recall testifying in a previous hearing in
04:03PM 22 this matter, correct?

04:03PM 23 A. Yes.

04:03PM 24 Q. And you recall talking about how inner circle is a term
04:03PM 25 that he used, right?

04:03PM 1 A. I don't recall that.

04:03PM 2 Q. You don't recall that.

04:03PM 3 **MR. SINGER:** I direct counsel's attention to 3595CW
04:04PM 4 at page 66, starting on line 13.

04:04PM 5 **BY MR. SINGER:**

04:04PM 6 Q. Do you recall giving the following answers to the
04:04PM 7 following questions in a previous hearing back in March of
04:04PM 8 2024, sir?

04:04PM 9 "Question: You talked earlier about how Mr. Bongiovanni
04:04PM 10 stated to you that Peter Gerace was not in his inner circle
04:04PM 11 of friends; do you remember saying that on direct?

04:04PM 12 "Answer: Yes.

04:04PM 13 "Question: An inner circle of friends that you recall
04:04PM 14 was something that he said by --

04:04PM 15 "Answer: Correct.

04:04PM 16 " -- by Mr. Bongiovanni, because you remember that was
04:04PM 17 something that was quoted.

04:04PM 18 "Answer: Yes.

04:04PM 19 "Inside your report, right?

04:04PM 20 "Answer: Yes.

04:04PM 21 "So the inner circle of friends was something that
04:04PM 22 Mr. Bongiovanni used in his interview with you, right?

04:04PM 23 "Answer: Yes.

04:04PM 24 "And close friends is not something he used directly in
04:04PM 25 his interview with you, correct?

04:05PM 1 "Answer: I can't recall him using it or not."

04:05PM 2 Do you remember giving those questions and answers, sir?

04:05PM 3 A. Yes.

04:05PM 4 Q. So I'll ask you again:

04:05PM 5 Inner circle was a term that Joe Bongiovanni used during
04:05PM 6 your interview in March of 2019, correct?

04:05PM 7 A. I recall the phrase close friends.

04:05PM 8 Q. So, Mr. Bongiovanni, when you interviewed him, he gave

04:05PM 9 you a number of different reasons why Peter Gerace was not in
04:05PM 10 his inner circle or a close friend of his, correct?

04:05PM 11 A. Yes.

04:05PM 12 Q. And he told you that, you know, kind of sum and

04:05PM 13 substance, if he saw Peter Gerace out, he'd buy him a drink
04:05PM 14 or he'd have a drink with him in a bar; is that right?

04:06PM 15 A. Yes.

04:06PM 16 Q. But Peter Gerace was not someone who was invited to his
04:06PM 17 wedding, correct?

04:06PM 18 A. Yes.

04:06PM 19 Q. Correct?

04:06PM 20 A. Yes.

04:06PM 21 Q. Not someone who he ever went over to Peter Gerace's
04:06PM 22 house, correct?

04:06PM 23 A. Correct.

04:06PM 24 Q. Did you ask Joe Bongiovanni when he was responding to
04:06PM 25 these questions and giving you descriptions about why Peter

04:06PM 1 Gerace was not in his inner circle or a close friend, how
04:06PM 2 many times he met out Peter Gerace?

04:06PM 3 A. I don't recall asking him that.

04:06PM 4 Q. And we talked earlier about how you didn't have the text
04:06PM 5 messages and the phone calls prior to your March 2019
04:06PM 6 interview?

04:06PM 7 A. Correct.

04:06PM 8 Q. So you didn't ask him any specific questions about that
04:06PM 9 either, correct?

04:06PM 10 A. Correct.

04:06PM 11 Q. So he didn't have the opportunity to respond back and
04:06PM 12 clarify any thoughts you had in your head about why it was
04:06PM 13 inconsistent with what you believe the relationship is?

04:06PM 14 A. At the time of the interview, I was only asking him and
04:06PM 15 he was explaining to me what it was. I didn't have any other
04:06PM 16 references to go by.

04:07PM 17 Q. Okay. Did you ask him about what his relationship -- Joe
04:07PM 18 Bongiovanni's definition was of a close friend or being in
04:07PM 19 the inner circle was?

04:07PM 20 A. I did not.

04:07PM 21 Q. Now, as an investigator, you're taught to ask clarifying
04:07PM 22 questions for things that are important to your interview,
04:07PM 23 correct?

04:07PM 24 A. Follow-up questions if necessary, yes.

04:07PM 25 Q. Um-hum. And you'd agree with me that learning about the

04:07PM 1 way Joe Bongiovanni defines "close friends" or "inner circle"

04:07PM 2 is something that's important to the interview, correct?

04:07PM 3 A. Could be, yes.

04:07PM 4 Q. It could be?

04:07PM 5 A. Could be, yes.

04:07PM 6 Q. Because it's going to help clarify what he means by we're

04:07PM 7 not close friends, or we're not in the inner circle, correct?

04:07PM 8 A. Yes.

04:07PM 9 Q. But you didn't do that?

04:07PM 10 A. No.

04:07PM 11 Q. So, another thing you testified to on direct was that

04:08PM 12 Mr. Bongiovanni told you about how Peter Gerace was a, quote,

04:08PM 13 unquote, police groupie; is that right?

04:08PM 14 A. Yes.

04:08PM 15 Q. And that's something that he offered as a reason as to

04:08PM 16 why he was not that close to Peter Gerace, correct?

04:08PM 17 A. Yes.

04:08PM 18 Q. And your understanding of that, based on your

04:08PM 19 conversation with Mr. Bongiovanni, was that Mr. Gerace

04:08PM 20 sometimes would suck up to police; is that right?

04:08PM 21 A. Yes.

04:08PM 22 Q. And Mr. Bongiovanni, as you understood it, was a law

04:08PM 23 enforcement officer during the duration of this relationship

04:08PM 24 that they had, correct?

04:08PM 25 A. Yes.

04:08PM 1 Q. And so he had some concerns about whether Peter Gerace
04:08PM 2 was being a friend to him, or just sucking up to him because
04:08PM 3 he was a police officer, right?

04:08PM 4 A. Yes.

04:08PM 5 Q. And that's something that would be reflective of a
04:08PM 6 person's feeling about whether they were close with someone,
04:08PM 7 right?

04:08PM 8 A. Correct.

04:08PM 9 Q. It would be reflective of whether or not a person was
04:08PM 10 within an inner circle, correct?

04:08PM 11 A. Correct.

04:08PM 12 Q. I mean, you're a law enforcement officer, correct?

04:08PM 13 A. Yes.

04:08PM 14 Q. You've been a law enforcement officer for almost
04:09PM 15 20 years?

04:09PM 16 A. Yes.

04:09PM 17 Q. I'm sure you've had people try to suck up to you
04:09PM 18 sometimes based on your position when they learn what you do?

04:09PM 19 A. Yes.

04:09PM 20 Q. You wouldn't consider those type of people to be close to
04:09PM 21 you, would you?

04:09PM 22 A. No.

04:09PM 23 Q. They wouldn't be in your inner circle either, correct?

04:09PM 24 A. No.

04:09PM 25 Q. You also talked about the vacation. And I think we saw

04:09PM 1 one of the pictures up. That picture in 2011 of the vacation
04:09PM 2 to Las Vegas?

04:09PM 3 A. Yes.

04:09PM 4 Q. That's something that came up during the course of your
04:09PM 5 interview of Mr. Bongiovanni, correct?

04:09PM 6 A. Yes.

04:09PM 7 Q. And what Mr. Bongiovanni reported to you is that that was
04:09PM 8 not something that was planned, correct?

04:09PM 9 A. Yes.

04:09PM 10 Q. And that particular trip, at that point in time in 2019,
04:09PM 11 I mean, that was eight and a half years ago?

04:09PM 12 A. I'm sorry, what year was that?

04:09PM 13 Q. 2011?

04:09PM 14 A. What was -- can you repeat the question again.

04:09PM 15 Q. Certainly. So the particular trip to Vegas that we saw
04:09PM 16 in that one picture, that was August of 2011, correct?

04:09PM 17 A. Yes.

04:09PM 18 Q. And you had your interview in March of 2019?

04:09PM 19 A. Yes.

04:09PM 20 Q. So that was about eight and a half years ago that that
04:10PM 21 happened, correct?

04:10PM 22 A. Yes.

04:10PM 23 Q. Mr. Bongiovanni stated to you that he didn't coordinate
04:10PM 24 any type of flights together with Peter Gerace on that trip,
04:10PM 25 correct?

04:10PM 1 A. Yes, that's correct.

04:10PM 2 Q. He indicated to you that it was a party that was planned
04:10PM 3 to celebrate the recent engagement of his sister-in-law?

04:10PM 4 A. I don't recall him giving a reason for the trip.

04:11PM 5 Q. Did you investigate the flights they took out to
04:11PM 6 Las Vegas?

04:11PM 7 A. I did not.

04:11PM 8 Q. Now, one of the things we went through a little bit in
04:11PM 9 detail was initiating contact with Peter Gerace; do you
04:11PM 10 recall testifying to that on direct?

04:11PM 11 A. Yes.

04:11PM 12 Q. So as far as initiation of contact was concerned, those
04:11PM 13 were not Joe Bongiovanni's words, correct?

04:11PM 14 A. Correct.

04:11PM 15 Q. Like, he did not say: I did not initiate contact with
04:11PM 16 Peter Gerace, correct?

04:11PM 17 A. That's correct.

04:11PM 18 Q. Those are your words?

04:11PM 19 A. That was -- those are my words in a question which he --

04:11PM 20 I asked him, did you ever initiate contact with Peter Gerace?

04:11PM 21 He denied it.

04:11PM 22 Q. Did you explain what you meant by that?

04:11PM 23 A. No.

04:12PM 24 Q. Did you ask any clarifying questions?

04:12PM 25 A. No.

04:12PM 1 Q. Did you provide a timeframe as to what you were asking
04:12PM 2 about when you asked him about whether or not he initiated
04:12PM 3 contact, quote, unquote?

04:12PM 4 A. No.

04:12PM 5 Q. Now, you were aware as part of your investigation that
04:12PM 6 Mr. Bongiovanni was directed to not have contact with Peter
04:12PM 7 Gerace in October of 2018?

04:12PM 8 A. I don't recall any specific direction that he was not to
04:12PM 9 have contact with him, no.

04:12PM 10 Q. You don't recall his supervisors telling him don't have
04:12PM 11 contact with Peter Gerace because he's under investigation,
04:12PM 12 he's a target?

04:12PM 13 A. I don't recall any -- I don't recall that, no.

04:12PM 14 Q. Do you recall the memoranda that he wrote twice regarding
04:12PM 15 contact he had with Peter Gerace in the fall of 2018,
04:12PM 16 correct?

04:12PM 17 A. Yes.

04:12PM 18 Q. Do you recall whether or not those are directed towards
04:12PM 19 why he was communicating with Peter Gerace?

04:13PM 20 A. Yes.

04:13PM 21 Q. But you don't recall that his leadership told him to
04:13PM 22 cease contact at this time?

04:13PM 23 A. Correct.

04:13PM 24 **MR. SINGER:** Ms. Champoux, can you please bring up
04:13PM 25 Government Exhibit 97.

04:13PM 1 **THE COURT:** Is this --

04:13PM 2 **MR. SINGER:** This is in evidence.

04:13PM 3 Ms. Champoux, can you please zoom in on the date
04:13PM 4 portion?

04:13PM 5 **BY MR. SINGER:**

04:13PM 6 Q. So you reviewed this memoranda as part of your
04:13PM 7 investigation, right, Mr. Carpenter?

04:13PM 8 A. Yes.

04:13PM 9 Q. This particular memorandum is dated November 1, 2018?

04:13PM 10 A. Yes.

04:13PM 11 **MR. SINGER:** If you can un-expand out of that,
04:13PM 12 Ms. Champoux.

04:13PM 13 **BY MR. SINGER:**

04:13PM 14 Q. It's going Greg Yensan; is that correct?

04:13PM 15 A. Looks like -- yes, Gregory Yensan.

04:13PM 16 Q. And Greg Yensan, yours understanding, was Joe
04:13PM 17 Bongiovanni's direct supervisor at that time?

04:13PM 18 A. Yes.

04:13PM 19 Q. It's also going to a person by the name of Ed Orgon?

04:14PM 20 A. Yes.

04:14PM 21 Q. And he was the person who was in command of the Buffalo
04:14PM 22 office at the time?

04:14PM 23 A. Yes.

04:14PM 24 Q. So not the first-line supervisor, but Mr. Bongiovanni's
04:14PM 25 second-line supervisor?

04:14PM 1 A. Correct.

04:14PM 2 **MR. SINGER:** If we can expand in on the first
04:14PM 3 paragraph, Ms. Champoux?

04:14PM 4 **BY MR. SINGER:**

04:14PM 5 Q. Can you please read that, sir?

04:14PM 6 A. It was brought to my attention that Peter Gerace had
04:14PM 7 become a target of a federal investigation.

04:14PM 8 Based on the intelligence I have received, I have
04:14PM 9 attempted to terminate all contact with Gerace.

04:14PM 10 It should be known that any contact I have had with
04:14PM 11 Gerace in the past was minimal, in-person contact, and
04:14PM 12 primarily consisted of a random telephone communication based
04:14PM 13 on the fact we were childhood friends.

04:14PM 14 I would sometimes randomly encounter Gerace at a
04:14PM 15 restaurant or golf outing, and have not made personal plans
04:14PM 16 to meet him social in years.

04:14PM 17 Q. Does that help refresh your memory about why he wrote
04:14PM 18 this memorandum?

04:14PM 19 **MS. CHALBECK:** Objection, Your Honor. The witness
04:14PM 20 lacks personal knowledge as to Mr. Bongiovanni's motivations
04:15PM 21 in writing the memorandum.

04:15PM 22 **THE COURT:** So, sustained to the form of the
04:15PM 23 question. You can ask.

04:15PM 24 **MR. SINGER:** Certainly.

04:15PM 25 **BY MR. SINGER:**

04:15PM 1 Q. So the first sentence in that particular memorandum talks
04:15PM 2 about it being brought to Mr. Bongiovanni's attention that
04:15PM 3 Peter Gerace had become a target of a federal investigation,
04:15PM 4 correct?

04:15PM 5 A. Yes.

04:15PM 6 Q. And the second sentence in that paragraph talks about how
04:15PM 7 he attempted to terminate contact with Gerace based on that
04:15PM 8 reason, correct?

04:15PM 9 A. Yes.

04:15PM 10 Q. So, again, based on your investigation, did you become
04:15PM 11 familiar that he was directed to not have contact with Peter
04:15PM 12 Gerace in the fall of 2018?

04:15PM 13 A. I have nothing specific that DEA supervisors told him not
04:15PM 14 to the contact Peter Gerace.

04:15PM 15 Q. You just don't know?

04:15PM 16 A. Correct.

04:15PM 17 Q. Okay.

04:15PM 18 **MR. SINGER:** Ms. Champoux, if we can un-expand out of
04:15PM 19 that. And if we can expand on the second two paragraphs.
04:16PM 20 Actually, the bottom two, as well, thank you.

04:16PM 21 **BY MR. SINGER:**

04:16PM 22 Q. Sir, do you mind reading this for the jury, please?

04:16PM 23 A. Sure.

04:16PM 24 Q. Thank you.

04:16PM 25 A. Over the past several months, I have received a series of

04:16PM 1 phone calls from Gerace which I did not answer.

04:16PM 2 On October 23rd and October 27th, 2018, I received a
04:16PM 3 series of text messages from Gerace, which was out of the
04:16PM 4 ordinary.

04:16PM 5 In the aforementioned text messages, Gerace seemed very
04:16PM 6 concerned by my failure to return his calls or text messages,
04:16PM 7 and was questioning why I did not return a social text
04:16PM 8 inquiry.

04:16PM 9 In an effort to maintain a sense of normal activity, and
04:16PM 10 with the hopes of not alerting Gerace that something may be
04:16PM 11 wrong, I returned a text and stated that I was working,
04:16PM 12 quote, midnights, unquote, and was sorry for my large gaps of
04:16PM 13 no communication.

04:16PM 14 I hoped -- I hoped that this reply would satisfy Gerace's
04:17PM 15 curiosity as to my absence of returning calls and texts.

04:17PM 16 Please see the attached text messages.

04:17PM 17 I have reported this unsolicited contact with Gerace to
04:17PM 18 my group supervisor, Gregory Yensan, and will continue to
04:17PM 19 avoid any future contact.

04:17PM 20 Q. So in this part of the memorandum, Mr. Bongiovanni is
04:17PM 21 talking about how he's trying to avoid contact with Gerace?

04:17PM 22 A. Correct.

04:17PM 23 Q. And about how, based on the messages that he was
04:17PM 24 receiving, that he did make a response to Mr. Gerace?

04:17PM 25 A. Yes.

04:17PM 1 Q. But it wasn't a genuine response, correct?

04:17PM 2 A. According to this memo, correct.

04:17PM 3 Q. And your understanding was that Peter Gerace was under
04:17PM 4 investigation at that point in time by the DEA, correct?

04:17PM 5 A. Yes.

04:17PM 6 Q. He was a target of an investigation back in the fall of
04:17PM 7 2018?

04:17PM 8 A. Actually, I don't know what was going on with the Gerace
04:17PM 9 investigation at the time.

04:18PM 10 Q. You just don't know?

04:18PM 11 A. Correct.

04:18PM 12 Q. All right.

04:18PM 13 **MR. SINGER:** So we can take that down, and move on to
04:18PM 14 the second page, Ms. Champoux.

04:18PM 15 **BY MR. SINGER:**

04:18PM 16 Q. So we've been through some of these messages before,
04:18PM 17 you've been through these messages, too, correct, sir?

04:18PM 18 A. I reviewed these messages, yes.

04:18PM 19 Q. So these particular messages were sent out in the June
04:18PM 20 2018 timeframe, these are regarding the meet-up at Sunset
04:18PM 21 Bay?

04:18PM 22 A. Yes.

04:18PM 23 Q. And they were -- where they run into each other at Tom
04:18PM 24 Doctor's house?

04:18PM 25 A. Yes.

04:18PM 1 **MR. SINGER:** So, Ms. Champoux, can we advance to
04:18PM 2 page 12 of the document.

04:18PM 3 **BY MR. SINGER:**

04:18PM 4 Q. And your review of the messages previous to this show
04:18PM 5 there's some invites to a Pharaoh's golf outing that occurs
04:18PM 6 back in July?

04:18PM 7 A. Yes.

04:18PM 8 Q. And then there's a gap in the messages, correct?

04:18PM 9 A. Yes.

04:18PM 10 Q. There's not responses going back and forth between Peter
04:18PM 11 Gerace and Joe Bongiovanni at that time?

04:19PM 12 A. Correct.

04:19PM 13 Q. And then we have messages that start to get exchanged
04:19PM 14 back on Tuesday, October 23rd; is that right?

04:19PM 15 A. Yes.

04:19PM 16 **MR. SINGER:** If you could advance to the next page,
04:19PM 17 Ms. Champoux.

04:19PM 18 **BY MR. SINGER:**

04:19PM 19 Q. And so these particular messages is what Mr. Bongiovanni
04:19PM 20 is referring to in his memorandum, correct, sir?

04:19PM 21 A. Yes.

04:19PM 22 Q. Where Peter Gerace is asking him, hey, are you alive?
04:19PM 23 Did you get a new phone? Is everything all right?

04:19PM 24 A. What was the question?

04:19PM 25 Q. He's asking whether he or not he's still alive?

04:19PM 1 A. Yes.

04:19PM 2 Q. He's asking whether or not he got a new phone?

04:19PM 3 A. Correct.

04:19PM 4 Q. He's asking whether or not he moved out of town?

04:19PM 5 A. Correct.

04:19PM 6 Q. So it appears on your examination of the messages, that

04:19PM 7 there hasn't really been a lot of phone contact between Joe

04:19PM 8 Bongiovanni and Peter Gerace for a while, right?

04:19PM 9 A. Correct.

04:19PM 10 Q. And it looks like there was never a response to the

04:19PM 11 initial message, correct?

04:19PM 12 A. Correct.

04:19PM 13 Q. Peter Gerace then follows up with another text; is that

04:19PM 14 correct?

04:20PM 15 A. It looks like a few hours later, correct.

04:20PM 16 **MR. SINGER:** Can we go to next page, Ms. Champoux.

04:20PM 17 **BY MR. SINGER:**

04:20PM 18 Q. And then this darker message here, this is a response

04:20PM 19 that Mr. Bongiovanni provided Peter Gerace at that time?

04:20PM 20 A. Yes.

04:20PM 21 Q. And that's consistent with what he writes in the memo,

04:20PM 22 correct?

04:20PM 23 A. Yes.

04:20PM 24 Q. Peter Gerace looks like he responds back, correct?

04:20PM 25 A. Yes.

04:20PM 1 Q. And then Mr. Bongiovanni sends back another response.

04:20PM 2 Hope all is well. You're not the only one mad at me, LOL?

04:20PM 3 A. Yes.

04:20PM 4 **MR. SINGER:** Can we move forward to the next page,

04:20PM 5 Ms. Champoux?

04:20PM 6 **BY MR. SINGER:**

04:20PM 7 Q. And it looks like Mr. Gerace responds, I'm not mad,

04:20PM 8 brother, just keep in touch?

04:20PM 9 A. Yes.

04:20PM 10 Q. So it appears, based on what you've read in these text

04:20PM 11 messages, that Peter Gerace is no longer concerned about the

04:20PM 12 lack of contact?

04:20PM 13 A. Correct.

04:21PM 14 **MR. SINGER:** Bring that down, Ms. Champoux. If we

04:21PM 15 can go to Government Exhibit 98 in evidence.

04:21PM 16 **BY MR. SINGER:**

04:21PM 17 Q. So this is another memorandum that you reviewed as part

04:21PM 18 of your investigation, sir?

04:21PM 19 A. Yes.

04:21PM 20 Q. And this was another memo that Mr. Bongiovanni submitted

04:21PM 21 to DEA leadership at the Buffalo office regarding Peter

04:21PM 22 Gerace and contact with him?

04:21PM 23 A. Correct.

04:21PM 24 Q. And this was submitted after the November 1st, 2018

04:21PM 25 memorandum that we looked at?

04:21PM 1 A. Yes.

04:21PM 2 Q. This was submitted on December 10th, of 2018?

04:21PM 3 A. Correct.

04:21PM 4 Q. And this is going to Mr. Bongiovanni's second-line
04:21PM 5 supervisor, Edward Orgon, the RAC of the office?

04:21PM 6 A. Yes.

04:21PM 7 **MR. SINGER:** Ms. Champoux if we can expand on the
04:21PM 8 first sentence in the first paragraph, please.

04:21PM 9 **BY MR. SINGER:**

04:21PM 10 Q. Can you please read that for the jury, sir? Thank you.

04:22PM 11 A. On December 10th, 2018, I received an incoming phone call
04:22PM 12 from Peter Gerace and ignored the call.

04:22PM 13 Immediately following the call from Gerace, I received
04:22PM 14 another incoming call from the 716-525-6511, and I ignored
04:22PM 15 the call because I did not recognize the number.

04:22PM 16 Immediately after my failure to answer the aforementioned
04:22PM 17 calls, I received a series of text messages from Gerace out
04:22PM 18 of the ordinary and over a span of a couple minutes.

04:22PM 19 In the text messages, Gerace seemed very concerned, and
04:22PM 20 in his text Gerace asked me to text back, quote, on the
04:22PM 21 number they just called you on, unquote.

04:22PM 22 Gerace immediately followed the call with another text
04:23PM 23 which read, quote, ASAP, unquote.

04:23PM 24 **MR. SINGER:** Ms. Champoux, if we can un-expand out of
04:23PM 25 that? And can we expand on the paragraph below, please?

04:23PM 1 BY MR. SINGER:

04:23PM 2 Q. Sorry, Mr. Carpenter, you're going to be my narrator
04:23PM 3 today. Would you mind reading this paragraph again?

04:23PM 4 A. I'll put my radio voice on then.

04:23PM 5 Q. You sound great.

04:23PM 6 A. In an effort to maintain a sense of normal activity, and
04:23PM 7 with hopes of not alerting Gerace that something may be
04:23PM 8 wrong, I responded and called the number 716-525-6511.

04:23PM 9 Gerace answered the phone, and I was agitated, and asked
04:23PM 10 Gerace why was he calling me over and over.

04:23PM 11 I then asked Gerace why he was calling me from a
04:23PM 12 different number.

04:23PM 13 Gerace stated that the 716-525-6511 belonged to his
04:23PM 14 girlfriend.

04:23PM 15 I stated that I did not respond to his calls and texts
04:24PM 16 because I was in court.

04:24PM 17 At that time, Gerace stated that he needed to tell me
04:24PM 18 something important, but he didn't want to talk on the phone.

04:24PM 19 I told Gerace that it was fine to talk on the phone, and
04:24PM 20 asked Gerace what was the problem?

04:24PM 21 Gerace stated that he, Gerace, was told that I was being
04:24PM 22 watched.

04:24PM 23 I asked Gerace who was watching me?

04:24PM 24 Gerace responded that he heard I was being watched by
04:24PM 25 internal affairs.

04:24PM 1 I responded is that so?

04:24PM 2 I asked Gerace who was giving him this information?

04:24PM 3 At that time, Gerace seemed to stumble and said that this
04:24PM 4 information was told to him by somebody he encountered while
04:24PM 5 he was dining or drinking at Salvatore's restaurant and
04:24PM 6 hotel.

04:24PM 7 Gerace stated that he did not recall the person's name.

04:24PM 8 Again, I asked Gerace, who said I was being -- excuse me,
04:25PM 9 who said I was being watched by internal affairs?

04:25PM 10 Again, Gerace failed to identify his source.

04:25PM 11 At that time, I told Gerace that his information was
04:25PM 12 quote, bullshit, unquote.

04:25PM 13 I also told Gerace that DEA does not even have a bureau
04:25PM 14 of internal affairs.

04:25PM 15 **MR. SINGER:** If we can un-expand out of that,
04:25PM 16 Ms. Champoux. If we can capture that last part of the
04:25PM 17 paragraph on the bottom page.

04:25PM 18 **BY MR. SINGER:**

04:25PM 19 Q. Go ahead and take your time, Mr. Carpenter.

04:25PM 20 Don't worry, you're reading less than Frank DiCarlo, so
04:25PM 21 you're all good.

04:25PM 22 Can you please read that part of the paragraph?

04:25PM 23 A. Gerace stated that the person believes that internal
04:25PM 24 affairs is watching me because Gerace and I have been friends
04:25PM 25 since we were kids, and now he owns Pharaoh's Gentlemen's

04:25PM 1 Club.

04:25PM 2 I responded that yes, we have been friends for years, but
04:26PM 3 I never came into your club.

04:26PM 4 Gerace said he agrees.

04:26PM 5 **MR. SINGER:** And then if we can un-expand out of
04:26PM 6 that, and move to the next page, Ms. Champoux.

04:26PM 7 Can you expand on the remaining paragraphs? So it
04:26PM 8 starts up with Gerace on that page.

04:26PM 9 **BY MR. SINGER:**

04:26PM 10 Q. Thank you very much, Mr. Carpenter. I'll leave it to
04:26PM 11 you.

04:26PM 12 A. Gerace reiterated that we are friends. And the reason
04:26PM 13 for the call was that Gerace was looking out for me.

04:26PM 14 I responded that there is nothing going on, and his
04:26PM 15 information was false.

04:26PM 16 Gerace sent me a text shortly after the conclusion of the
04:26PM 17 telephone call, and in sum and substance, stated that, quote,
04:26PM 18 we haven't talked in a while, but he considered me one of his
04:26PM 19 best friends, and that he always had my back, unquote.

04:26PM 20 As a continued effort to maintain a sense of normal
04:26PM 21 activity, I texted Gerace back. Quote, we have been friends
04:26PM 22 for 25 years, bud, all good, unquote.

04:27PM 23 On December 8th, 2018, a received a reply text from
04:27PM 24 Gerace. Quote, you mean 36 years, unquote.

04:27PM 25 I have and will report all contact with Gerace to a DEA

04:27PM 1 supervisor, like I have in the past, and will in the future,
04:27PM 2 should unsolicited communications with Gerace occur.

04:27PM 3 Q. Thank you, Mr. Carpenter.

04:27PM 4 **MR. SINGER:** Ms. Champoux, will you mind un-expanding
04:27PM 5 out of that? And can we move to the next page in the
04:27PM 6 document?

04:27PM 7 **BY MR. SINGER:**

04:27PM 8 Q. So you recall when you reviewed this memorandum,
04:27PM 9 Mr. Carpenter, that you also took a look at the text messages
04:27PM 10 that were appended to it?

04:27PM 11 A. Yes.

04:27PM 12 Q. And these particular text messages we're looking at right
04:27PM 13 now are the ones that are being referenced inside the
04:27PM 14 narrative above; is that correct?

04:27PM 15 A. Yes.

04:27PM 16 **MR. SINGER:** If we can move to the next page,
04:27PM 17 Ms. Champoux.

04:28PM 18 **BY MR. SINGER:**

04:28PM 19 Q. And, again, this is a continuation of that conversation
04:28PM 20 that was referenced?

04:28PM 21 A. Yes.

04:28PM 22 Q. And so when Mr. Bongiovanni is talking about the
04:28PM 23 friendship that he has with Peter Gerace at this particular
04:28PM 24 time, there's a context to it, correct?

04:28PM 25 A. Yes.

04:28PM 1 Q. And that context is being explained in the memorandum
04:28PM 2 above?

04:28PM 3 A. Yes.

04:28PM 4 **MR. SINGER:** Can we move on to the next page,
04:28PM 5 Ms. Champoux?

04:28PM 6 Oh, yeah, just a little. That is the last page.
04:28PM 7 Excuse me. And we can bring that down, Ms. Champoux.

04:28PM 8 **BY MR. SINGER:**

04:28PM 9 Q. So, you read these memoranda prior to going into the
04:28PM 10 March 2019 interview, right?

04:28PM 11 A. Yes.

04:28PM 12 Q. And I know you talked about on direct several text
04:28PM 13 messages that are in addition to these, correct, that you
04:28PM 14 looked at?

04:28PM 15 A. Yes.

04:28PM 16 Q. That was in Government Exhibit 310D?

04:28PM 17 A. I believe that's the exhibit.

04:28PM 18 Q. And that's the longer string of text messages that go
04:28PM 19 from 2015 all the way to 2018?

04:29PM 20 A. Yes.

04:29PM 21 Q. And as far as those text messages, you were asked a
04:29PM 22 number of questions about those text messages. So I just
04:29PM 23 want to go kind of quickly go through those.

04:29PM 24 The government talked to you about Saint Patrick's Day
04:29PM 25 party invitation that occurred, correct?

04:29PM 1 A. Yes.

04:29PM 2 Q. That occurred back in 2015?

04:29PM 3 A. Yes.

04:29PM 4 Q. They also talked to you about the text message in 2015

04:29PM 5 that related to Mr. Gerace wanted to give Joe Bongiovanni a
04:29PM 6 gift; do you remember that?

04:29PM 7 A. Yes.

04:29PM 8 Q. And you're aware of the fact that Mr. Bongiovanni was
04:29PM 9 married, correct?

04:29PM 10 A. Yes.

04:29PM 11 Q. You're aware of the fact that Peter Gerace did not attend
04:29PM 12 the wedding, correct?

04:29PM 13 A. Yes.

04:29PM 14 Q. Are you aware of the fact that that's what the gift that
04:29PM 15 Peter Gerace wanted to give Joe Bongiovanni is referenced in
04:29PM 16 that email or text message?

04:29PM 17 A. I was not.

04:29PM 18 Q. The government also talked to you about another July 2015
04:29PM 19 invitation regarding a birthday that was going on for
04:29PM 20 Mr. Bongiovanni?

04:29PM 21 A. Yes.

04:30PM 22 Q. And that was at the house followed by Boss Restaurant?

04:30PM 23 A. Yes.

04:30PM 24 Q. And then I think there was another text message that was
04:30PM 25 referenced in August of 2015 where Mr. Bongiovanni asked him,

04:30PM 1 you know, if I needed to send you a letter, what's your
04:30PM 2 address?

04:30PM 3 A. Yes.

04:30PM 4 Q. And that's after that birthday party, correct?

04:30PM 5 A. Yes.

04:30PM 6 Q. It's after the text where Peter Gerace is talking about

04:30PM 7 providing some type of gift to Mr. Bongiovanni?

04:30PM 8 A. Yes.

04:30PM 9 Q. Do you know what the particular reference is being made
04:30PM 10 as far as why Mr. Bongiovanni wants to send him a letter?

04:30PM 11 A. No.

04:30PM 12 Q. Could it be a thank you though?

04:30PM 13 A. I don't know the context.

04:30PM 14 Q. Well, you just saw those two messages that the government
04:30PM 15 brought to your attention on direct, correct?

04:30PM 16 A. Yes.

04:30PM 17 **MS. CHALBECK:** Objection, argumentative.

04:30PM 18 **THE COURT:** Overruled.

04:30PM 19 **BY MR. SINGER:**

04:30PM 20 Q. Another message that the government brought you through
04:30PM 21 was something that occurred back in June of 2016 regarding
04:30PM 22 Peter Gerace's parents having some type of anniversary or
04:30PM 23 birthday party; is that right?

04:31PM 24 A. I don't know. There was an event with the parents,
04:31PM 25 correct.

04:31PM 1 Q. But you don't know what the particular event was?

04:31PM 2 A. No.

04:31PM 3 Q. In your review of the text messages, it's a fair
04:31PM 4 statement that the contact between Joe Bongiovanni and Peter
04:31PM 5 Gerace starts to drop off moving through 2016 and into 2017
04:31PM 6 and 2018, correct?

04:31PM 7 A. I'm not exactly sure the frequency of the drop off, but I
04:31PM 8 can't say for sure on that.

04:31PM 9 Q. Okay. So, I know you reviewed these messages, but you
04:31PM 10 can't say for certain whether or not contact between the two
04:31PM 11 dropped off?

04:31PM 12 A. Around that timeframe, correct.

04:31PM 13 Q. You can't say whether or not Mr. Bongiovanni's initiation
04:31PM 14 of contact dropped off?

04:31PM 15 A. Correct.

04:31PM 16 Q. You can't say whether or not Peter Gerace's initiation of
04:31PM 17 contact was greater than Mr. Bongiovanni?

04:32PM 18 A. Correct.

04:32PM 19 Q. Because you just didn't count out the messages yourself?

04:32PM 20 A. Yes.

04:32PM 21 Q. The government talked about some phone logs and phone
04:32PM 22 calls that were made between Peter Gerace and Joe
04:32PM 23 Bongiovanni; is that right?

04:32PM 24 A. Yes.

04:32PM 25 Q. Those phone logs were not something that you reviewed

04:32PM 1 prior to your April 29 -- sorry, prior to your March 2019
04:32PM 2 interview?

04:32PM 3 A. Correct.

04:32PM 4 Q. But those are ones that you reviewed in some degree
04:32PM 5 before today?

04:32PM 6 A. Yes.

04:32PM 7 Q. Did you go through all the times that were -- Peter
04:32PM 8 Gerace and Joe Bongiovanni were in contact?

04:32PM 9 A. I can't say about all of them.

04:32PM 10 Q. Did you count out the times that Peter Gerace called Joe
04:32PM 11 Bongiovanni?

04:32PM 12 A. I did not.

04:32PM 13 Q. Did you count out the number of times that Joe
04:32PM 14 Bongiovanni called Peter Gerace?

04:32PM 15 A. No.

04:32PM 16 Q. Did you cross-reference those calls with the text
04:32PM 17 messages to figure out who was calling who and why?

04:33PM 18 A. The call logs indicate who was calling who.

04:33PM 19 Q. All right. Well, how about those text messages you
04:33PM 20 reviewed. You reviewed those, right?

04:33PM 21 A. Correct.

04:33PM 22 Q. And they posed questions, Peter Gerace poses questions to
04:33PM 23 Joe Bongiovanni, right?

04:33PM 24 A. Yes.

04:33PM 25 Q. Joe Bongiovanni poses questions to Peter Gerace?

04:33PM 1 A. Yes.

04:33PM 2 Q. And sometimes there are references in those text messages
04:33PM 3 to call me?

04:33PM 4 A. Yes.

04:33PM 5 Q. Did you cross-reference to see whether or not the phone
04:33PM 6 logs match up with those text messages in any way?

04:33PM 7 A. I did not.

04:33PM 8 **MR. SINGER:** Ms. Champoux, can you bring up
04:33PM 9 Government Exhibit 426-1.

04:33PM 10 **BY MR. SINGER:**

04:33PM 11 Q. So we talked about this particular picture on direct,
04:33PM 12 correct?

04:33PM 13 A. Yes.

04:33PM 14 Q. And your understanding this was this picture was taken
04:33PM 15 more than ten years ago prior to your interview in March of
04:33PM 16 2019?

04:33PM 17 A. Yes.

04:33PM 18 Q. Not very recent, you would agree with me, correct?

04:33PM 19 A. Yes.

04:33PM 20 **MR. SINGER:** You can bring that down, Ms. Champoux.

04:34PM 21 Can you bring up 490A please?

04:34PM 22 **MS. CHAMPOUX:** 490A.

04:34PM 23 **MR. SINGER:** 490A, as in alpha.

04:34PM 24 **BY MR. SINGER:**

04:34PM 25 Q. This is another picture you talked about on your direct;

04:34PM 1 is that correct?

04:34PM 2 A. Yes, sir.

04:34PM 3 Q. And this particular picture, it's got a date stamp on it
04:34PM 4 of August 2011, correct?

04:34PM 5 A. Yes.

04:34PM 6 Q. And this was something that was more than eight years
04:34PM 7 before the interview you conducted in March of 2019?

04:34PM 8 A. Correct.

04:34PM 9 Q. Not very recent?

04:34PM 10 A. Correct.

04:34PM 11 **MR. SINGER:** You can bring that down, Ms. Champoux.

04:34PM 12 **BY MR. SINGER:**

04:34PM 13 Q. So when you asked Mr. Bongiovanni, getting back to your
04:34PM 14 interview in March of 2019, about initiation of contact, you
04:34PM 15 testified that you didn't provide him any type of timeframe;
04:34PM 16 is that right?

04:34PM 17 A. Ever.

04:34PM 18 Q. But when you're talking about this with him, this is
04:34PM 19 after all those memoranda that we just talked about occurred,
04:34PM 20 correct?

04:34PM 21 A. Um-hum. Yes.

04:35PM 22 Q. So the November 1st, 2018 memorandum was filed with the
04:35PM 23 DEA, right?

04:35PM 24 A. Yes.

04:35PM 25 Q. And in that memorandum, Mr. Bongiovanni indicated that he

04:35PM 1 was made aware that Peter Gerace was a target of
04:35PM 2 investigation?

04:35PM 3 A. Yes.

04:35PM 4 Q. And the December 10th memoranda that was filed on Peter
04:35PM 5 Gerace, do you remember seeing that?

04:35PM 6 A. Yes.

04:35PM 7 Q. That occurred prior to the March 2019 interview, correct?

04:35PM 8 A. Yes.

04:35PM 9 Q. Where he's explaining why he had particular contact with
04:35PM 10 Peter Gerace?

04:35PM 11 A. Yes.

04:35PM 12 Q. And whether or not he initiated those contacts?

04:35PM 13 A. I don't recall the initiated -- I'm sorry, can you
04:35PM 14 clarify the question?

04:35PM 15 Q. Certainly. So inside of those memoranda, he's explaining
04:35PM 16 whether he initiated contact with Mr. Gerace, correct?

04:35PM 17 A. I don't think he clarified if he was initiating or not,

04:35PM 18 but --

04:35PM 19 Q. Okay. But he's indicating why he's responding back to
04:35PM 20 the messages, correct?

04:35PM 21 A. Correct.

04:35PM 22 Q. Why he's responding back to these calls?

04:35PM 23 A. Yes.

04:35PM 24 Q. So it appears, since he's noting his response, that Peter
04:35PM 25 Gerace is initiating contact on those times, correct?

04:35PM 1 A. Yes.

04:35PM 2 Q. And that's what's in his head during this March 2019
04:36PM 3 interview, correct?

04:36PM 4 **MS. CHALBECK:** Objection, Your Honor. I -- perhaps
04:36PM 5 to form, if not to personal knowledge. I think it's -- what's
04:36PM 6 in the defendant's head?

04:36PM 7 **THE COURT:** Yeah, sustained.

04:36PM 8 **BY MR. SINGER:**

04:36PM 9 Q. You'd agree with me that when you had this interview in
04:36PM 10 March of 2019, it's after all these memoranda are written,
04:36PM 11 correct?

04:36PM 12 A. Yes, sir.

04:36PM 13 Q. Several months after that?

04:36PM 14 A. Yes.

04:36PM 15 Q. And you discussed the memoranda, correct?

04:36PM 16 A. Yes.

04:36PM 17 Q. So as part the March 2019 interview, there was also
04:36PM 18 discussion about overdoses, and Peter Gerace, and whether or
04:36PM 19 not he made a phone call to Joe Bongiovanni; do you remember
04:36PM 20 that?

04:36PM 21 A. Yes.

04:36PM 22 Q. And you asked him that question because this is one of
04:36PM 23 the allegations that Agent Casullo levied against Joe
04:37PM 24 Bongiovanni, correct?

04:37PM 25 A. Correct.

04:37PM 1 Q. And this is one of the allegations that Joe Bongiovanni
04:37PM 2 denied inside the memoranda that we read before the break,
04:37PM 3 correct?

04:37PM 4 A. Yes.

04:37PM 5 Q. So, part of your investigation was into, hey, what
04:37PM 6 happened with this, correct?

04:37PM 7 A. Yes.

04:37PM 8 Q. And, so, you asked the question about whether or not
04:37PM 9 Peter Gerace called Joe Bongiovanni during an active overdose
04:37PM 10 situation, correct?

04:37PM 11 A. Correct.

04:37PM 12 Q. Do you remember the exact words you used when you asked
04:37PM 13 him that question?

04:37PM 14 A. I don't recall the exact words. But I know he denied it
04:37PM 15 happening.

04:37PM 16 Q. Okay. So he denied that it happened. But he provided
04:37PM 17 you other information about conversations that he did have
04:37PM 18 with Gerace, correct?

04:37PM 19 A. Correct.

04:37PM 20 Q. And what he indicated to you was that he did receive
04:37PM 21 calls in the past from Peter Gerace, correct?

04:37PM 22 A. Yes.

04:37PM 23 Q. They were not in an emergent situation of someone
04:37PM 24 overdosing, correct?

04:37PM 25 A. Correct.

04:37PM 1 Q. But given his line of work, he was concerned that if a
04:37PM 2 patron or employee overdosed at Pharaoh's Gentlemen's Club,
04:38PM 3 what should he do, correct?

04:38PM 4 **MS. CHALBECK:** Objection to form. And lack of
04:38PM 5 personal knowledge as to what Mr. Bongiovanni was concerned
04:38PM 6 about.

04:38PM 7 **THE COURT:** Yeah, sustained Mr. Singer. You keep
04:38PM 8 asking the questions that way. You can't ask them that way.

04:38PM 9 **MR. SINGER:** I got it, Judge.

04:38PM 10 **BY MR. SINGER:**

04:38PM 11 Q. What was explained to you was Peter Gerace had concerns
04:38PM 12 about an employee or patron overdosing at the club?

04:38PM 13 A. Yes.

04:38PM 14 Q. And that was the reason for the contact with
04:38PM 15 Mr. Bongiovanni?

04:38PM 16 A. Yes.

04:38PM 17 Q. And what Mr. Bongiovanni told Peter Gerace was that he
04:38PM 18 should get certified in Narcan?

04:38PM 19 A. Yes.

04:38PM 20 Q. But he denied anything about telling Peter Gerace get the
04:38PM 21 stripper out of there, or something to that effect, correct?

04:38PM 22 A. Correct.

04:38PM 23 Q. You also talked about on direct the question about how
04:39PM 24 Mr. Bongiovanni denied ever witnessing Peter Gerace consume
04:39PM 25 or use narcotics; do you recall that?

04:39PM 1 A. Yes.

04:39PM 2 Q. So, that particular part of your testimony, it's not
04:39PM 3 consistent with your notes, correct?

04:39PM 4 A. My handwritten notes may reflect a different wordage, but
04:39PM 5 the report reflects consume narcotics.

04:39PM 6 Q. Yeah. So for instance, your notes reflect that you asked
04:39PM 7 Mr. Bongiovanni whether or not you've ever seen Peter Gerace
04:39PM 8 with drugs, correct?

04:39PM 9 A. I believe that's what they reflect, yes.

04:39PM 10 Q. And he responded back to that answer in the negative,
04:39PM 11 correct?

04:39PM 12 A. Yes.

04:39PM 13 Q. And you'd agree with me that seeing someone with drugs
04:39PM 14 versus seeing someone use drugs, that's something that's
04:39PM 15 different, correct?

04:39PM 16 A. Yes.

04:39PM 17 Q. But the way you reported it in your testimony was that
04:39PM 18 he'd never seen Gerace use drugs; is that right?

04:39PM 19 A. Yes.

04:39PM 20 Q. You also talked about the short leash comment; is that
04:39PM 21 right?

04:40PM 22 A. Yes.

04:40PM 23 Q. Now your handwritten notes, they differ from your report,
04:40PM 24 correct?

04:40PM 25 A. Yes.

04:40PM 1 Q. The short port of that short leash is omitted from your
04:40PM 2 notes, correct?

04:40PM 3 A. Correct.

04:40PM 4 Q. It your notes, it's just reflected as leash, correct?

04:40PM 5 A. Yes.

04:40PM 6 Q. So are you paraphrasing there, sir?

04:40PM 7 A. No.

04:40PM 8 Q. That's something that you believe that Mr. Bongiovanni
04:40PM 9 told you directly in the interview?

04:40PM 10 A. Yes.

04:40PM 11 Q. Even though it's not reported in your notes?

04:40PM 12 A. Correct.

04:40PM 13 Q. Now, with regard to the racial comment that Special Agent
04:40PM 14 Casullo made allegations about. You talked to
04:40PM 15 Mr. Bongiovanni about that, as well, correct?

04:40PM 16 A. Correct.

04:40PM 17 Q. And we talked about the memorandum, that's something he
04:40PM 18 denied ever happening, correct?

04:40PM 19 A. Correct.

04:40PM 20 Q. With regard to Ron Serio, I think the government asked
04:41PM 21 you almost a dozen times whether or not you ever used the
04:41PM 22 name Ron Serio in your March 2019 interview; do you remember
04:41PM 23 that?

04:41PM 24 A. Yes.

04:41PM 25 Q. And I think on each and every occasion, you said no, I

04:41PM 1 never used the name Ron Serio?

04:41PM 2 A. Correct.

04:41PM 3 Q. So, as far as Ron Serio's concerned, you also testified
04:41PM 4 that prior to this particular interview, you had some type of
04:41PM 5 meeting or call with Special Agent Ryan from HSI; is that
04:41PM 6 right?

04:41PM 7 A. Yes.

04:41PM 8 Q. And your testimony today is that during this particular
04:41PM 9 call, or meeting, Agent Ryan gave you seven different names
04:41PM 10 of people to ask about during your March 2019 interview,
04:41PM 11 correct?

04:41PM 12 A. Yes.

04:41PM 13 Q. And you testified today that Agent Ryan asked you to do
04:41PM 14 this, but never brought out any reasoning as to why he wanted
04:41PM 15 you to ask about these names?

04:41PM 16 A. Correct.

04:41PM 17 Q. Did you take any notes about these particular names prior
04:41PM 18 to the March 2019 interview?

04:42PM 19 A. Not that I recall, no.

04:42PM 20 Q. How did you remember all these names?

04:42PM 21 A. I did, I -- I can't say how.

04:42PM 22 Q. Yeah, I mean, I guess, would it be difficult to memorize
04:42PM 23 these names if you were never provided any context as to why
04:42PM 24 they were relevant to ask about?

04:42PM 25 A. I'm -- I remember the names from the interview, I'm not

04:42PM 1 sure what --

04:42PM 2 Q. And you remember talking about earlier about how you have
04:42PM 3 a particular investigation that's separate and apart from
04:42PM 4 Agent Ryan's investigation, correct?

04:42PM 5 A. Yes.

04:42PM 6 Q. It was the intent of both of you not to cross streams,
04:42PM 7 correct?

04:42PM 8 A. Yes.

04:42PM 9 Q. And the reason for that is that you didn't want to do
04:42PM 10 anything to alert Agent Bongiovanni to the fact that he was
04:42PM 11 under investigation vis-à-vis the Ron Serio investigation,
04:42PM 12 correct?

04:42PM 13 A. That's part of the reason, yes.

04:42PM 14 Q. And so as far as these names are concerned, one of the
04:42PM 15 names that you know, T.S. is associated with the Joe
04:43PM 16 Bongiovanni investigation -- sorry, the Ron Serio
04:43PM 17 investigation, correct?

04:43PM 18 A. I know that now, correct.

04:43PM 19 Q. But you claim that you didn't know that back in March of
04:43PM 20 2019?

04:43PM 21 A. Correct.

04:43PM 22 Q. But you knew when you were asking that question in the
04:43PM 23 interview when you got the response from Agent Bongiovanni it
04:43PM 24 was related to the Ron Serio investigation, right?

04:43PM 25 A. I cannot recall his answer offhand regarding that name.

04:43PM 1 Q. Would taking a look at your notes help refresh your
04:43PM 2 memory about that?

04:43PM 3 A. It would.

04:43PM 4 Q. So I'm going to direct your attention to page 10 of
04:43PM 5 Government Exhibit 3595 Bravo Victor.

04:43PM 6 I'll make two Xs on the page, sir.

04:43PM 7 When you're done, take a look at that, please look up at
04:43PM 8 me.

04:44PM 9 I'm going to take that away from you, Mr. Carpenter.

04:44PM 10 Did that help refresh your memory as to what was said
04:44PM 11 vis-à-vis T.S.?

04:44PM 12 A. Yes.

04:44PM 13 Q. All right. So T.S., he was someone who Mr. Bongiovanni,
04:44PM 14 unlike some of the other people you asked about, did know
04:44PM 15 about, correct?

04:44PM 16 A. Yes.

04:44PM 17 Q. And he was someone who Mr. Bongiovanni was familiar about
04:44PM 18 because he was the target of a controlled buy that
04:44PM 19 Mr. Bongiovanni attempted during the Ron Serio investigation,
04:44PM 20 correct?

04:44PM 21 A. What I recall in the interview, refreshed from my notes,
04:44PM 22 is that he was tried to be recruited as a source of
04:44PM 23 information, but wasn't successful.

04:44PM 24 Q. So your notes reflect that he was being recruited as a
04:45PM 25 source of information?

04:45PM 1 A. That's what I believe I just read, yes.

04:45PM 2 Q. And do you recall talking to Mr. Bongiovanni about the
04:45PM 3 fact that -- that R.K. was used for an attempted controlled
04:45PM 4 buy of T.S.?

04:45PM 5 A. I don't recall the part of the conversation.

04:45PM 6 Q. Don't recall that part of the conversation?

04:46PM 7 Do you remember testifying in a previous hearing back in
04:46PM 8 March of 2024?

04:46PM 9 A. I do.

04:46PM 10 **MR. SINGER:** I'll direct counsel's attention to
04:46PM 11 Exhibit 3595CW at 97, line 11.

04:46PM 12 **BY MR. SINGER:**

04:46PM 13 Q. Do you remember giving the following responses to the
04:46PM 14 following questions:

04:46PM 15 "Question: And in his response -- referring to
04:46PM 16 Mr. Bongiovanni -- was is that he knew that the person was
04:46PM 17 someone associated with someone they were trying to buy drugs
04:46PM 18 from when they had R.K. as a source, correct?

04:46PM 19 Answer: Yes, I believe so."

04:46PM 20 Do you remember giving that answer, sir?

04:46PM 21 A. Yes.

04:46PM 22 Q. So, T.S., as explained to you by Mr. Bongiovanni, was
04:46PM 23 somebody who they were trying do a controlled buy through
04:46PM 24 R.K. through, correct?

04:46PM 25 A. Yes.

04:46PM 1 Q. And that was relating to the Ron Serio investigation,
04:46PM 2 correct?

04:46PM 3 A. I'm not sure what it was related to.

04:46PM 4 Q. Well, you know now, correct?

04:46PM 5 A. Okay.

04:47PM 6 Q. I'm asking you. You know now?

04:47PM 7 A. I don't know much -- I don't really know anything about
04:47PM 8 the Ron Serio investigation.

04:47PM 9 Q. You just don't know?

04:47PM 10 A. I never was a part of it.

04:47PM 11 Q. So, kind of fast forwarding back to June of 2019, you sit
04:47PM 12 down with Mr. Bongiovanni again at his house, correct?

04:47PM 13 A. Yes.

04:47PM 14 Q. And that's after the SWAT team entered and cleared the
04:47PM 15 house?

04:47PM 16 A. Yes, sir.

04:47PM 17 Q. After the flash bang was let off, correct?

04:47PM 18 A. Yes.

04:47PM 19 Q. After he's placed in handcuffs, correct?

04:47PM 20 A. I don't know if he was placed in handcuffs, I wasn't part
04:47PM 21 of that.

04:47PM 22 Q. Were you down the street like Agent Ryan waiting for the
04:47PM 23 SWAT team to get finished clearing the house?

04:47PM 24 I'm sorry you I didn't hear your answer on that.

04:47PM 25 A. Yes.

04:47PM 1 Q. Thank you. So you sit down and talk to him, and the
04:47PM 2 topic of Ron Serio comes up, correct?

04:48PM 3 A. Correct.

04:48PM 4 Q. And one of things that happens was that Mr. Bongiovanni
04:48PM 5 pointed to you and said, you know, I know that's the focus of
04:48PM 6 your investigation in some way, because we talked about it in
04:48PM 7 March of 2019, correct?

04:48PM 8 A. Yes.

04:48PM 9 Q. And, so, you testified that that just didn't seem
04:48PM 10 correct, right?

04:48PM 11 A. Yes.

04:48PM 12 Q. Based on the fact that you did not use the name Ron Serio
04:48PM 13 back in March of 2019?

04:48PM 14 A. Correct.

04:48PM 15 Q. But you would agree with me that you did use the name
04:48PM 16 T.S., correct?

04:48PM 17 A. I did.

04:48PM 18 Q. And Mr. Bongiovanni is the case agent on the Ron Serio
04:48PM 19 investigation, correct?

04:48PM 20 A. I believe so, yes.

04:48PM 21 Q. And I know that you don't know much about the case, but
04:48PM 22 safe to say if he's the case agent, he's going to know a lot
04:48PM 23 about the case?

04:48PM 24 A. I hope so.

04:48PM 25 Q. And so if you drop names that are relevant to the case,

04:48PM 1 that's going to alert him to what's going on in the
04:48PM 2 investigation, correct?

04:48PM 3 A. Drop a name, yes.

04:48PM 4 Q. And back in March of 2019, you said that your focus was I
04:49PM 5 want to learn information about Peter Gerace --

04:49PM 6 A. Um-hum.

04:49PM 7 Q. -- and your with relationship him, correct?

04:49PM 8 A. Yes.

04:49PM 9 Q. And I also want to talk to you about the racial comments
04:49PM 10 that Tony Casullo allege you made, right?

04:49PM 11 A. Yes.

04:49PM 12 Q. But then you also start talking about other names that
04:49PM 13 Curtis Ryan gave you, correct?

04:49PM 14 A. Yes, sir.

04:49PM 15 Q. And one of those names being T.S.?

04:49PM 16 A. Correct.

04:49PM 17 Q. And you know you may not know 100 percent, but you'd
04:49PM 18 agree with me that there's some relationship that T.S. has to
04:49PM 19 the Ron Serio investigation, right?

04:49PM 20 A. I believe so. I can't say for certain.

04:49PM 21 Q. All right. And as far as the June 2019 interview is
04:49PM 22 concerned, so, you testified on direct that you believe that
04:49PM 23 Agent Bongiovanni at that point in time was calm during the
04:49PM 24 interview; is that right?

04:49PM 25 A. Yes.

04:49PM 1 Q. And that's just after the house gets raided by a bunch of
04:49PM 2 tactical officers, correct?

04:49PM 3 A. Yes.

04:49PM 4 Q. Right after the flash bang was used, correct?

04:49PM 5 A. I wouldn't say right after, but after.

04:49PM 6 Q. After for some period of time, correct?

04:49PM 7 A. Yes.

04:49PM 8 Q. But you would agree with me that the context of the

04:50PM 9 interview was much different than the one back in March of

04:50PM 10 2019, right?

04:50PM 11 A. Yes, sir.

04:50PM 12 Q. There was no invitation to this particular interview,

04:50PM 13 correct?

04:50PM 14 A. There was.

04:50PM 15 Q. Well, did you call him up in advance and say, hey, Joe,

04:50PM 16 would you mind meeting up with me again?

04:50PM 17 A. He was asked if he wanted to have a voluntary interview

04:50PM 18 with us in June.

04:50PM 19 Q. And what I asked you was did you extend an invitation in

04:50PM 20 advance and say, hey, would you mind coming down and speaking

04:50PM 21 with me about this situation?

04:50PM 22 A. No.

04:50PM 23 Q. So you didn't do that, right?

04:50PM 24 A. No.

04:50PM 25 Q. You didn't say, hey, it's purely voluntary for you to

04:50PM 1 kind of sit down and do this.

04:50PM 2 A. We did.

04:50PM 3 Q. Talked to him at that morning and time about that?

04:50PM 4 A. He knew it was voluntary, yes.

04:50PM 5 Q. Okay. And you talked about Frank Parisi is somebody who
04:50PM 6 came up; do you remember that, sir?

04:50PM 7 A. Yes.

04:50PM 8 Q. And it was somebody who was discussed inside this June
04:50PM 9 2019 interview, correct?

04:50PM 10 A. Yes.

04:50PM 11 Q. And you talked about the particular number that Frank
04:50PM 12 Parisi had, correct?

04:51PM 13 A. Yes.

04:51PM 14 **MR. SINGER:** And Ms. Champoux, can we bring up
04:51PM 15 Government Exhibit 358A, please? And can we do a search for
04:51PM 16 481-8111.

04:51PM 17 **MS. CHALBECK:** Yeah, you can't do that in the
04:51PM 18 submarked.

04:51PM 19 **MR. SINGER:** I'm sorry. I can do it on my copy.

04:51PM 20 **MR. COOPER:** You have to go to the PDF.

04:51PM 21 **BY MR. SINGER:**

04:51PM 22 Q. Don't worry, we don't need to do that.

04:51PM 23 So you talked about this one particular call happening in
04:51PM 24 the March 2014 timeframe?

04:51PM 25 A. Yes.

04:51PM 1 Q. This is the four-minute call that was incoming to Joe
04:51PM 2 Bongiovanni, correct?

04:51PM 3 A. Yes.

04:51PM 4 Q. But you've also reviewed the records of the phone calls
04:51PM 5 between Mr. Bongiovanni and Mr. Parisi moving forward,
04:51PM 6 correct?

04:51PM 7 A. I did not review all those records, correct.

04:51PM 8 Q. Do you have any reason to disagree that that's the only
04:51PM 9 phone call in the records?

04:51PM 10 A. I don't have any information other than that one phone
04:52PM 11 call.

04:52PM 12 Q. So you didn't look?

04:52PM 13 A. Correct.

04:52PM 14 **MR. SINGER:** May I just have a minute, Judge?

04:52PM 15 **THE COURT:** Sure.

04:52PM 16 **MR. SINGER:** Thank you, Agent Carpenter. And thanks
04:52PM 17 for being a narrator today. I appreciate it.

04:52PM 18 **THE WITNESS:** Want my book on tape?

04:52PM 19 **THE COURT:** Any redirect?

04:52PM 20 **MS. CHALBECK:** Yes, Your Honor.

04:52PM 21

04:52PM 22 **REDIRECT EXAMINATION BY MS. CHALBECK:**

04:53PM 23 Q. Just now on cross-examination, you were asked questions
04:53PM 24 regarding the June 9th, 2019 interview; do you recall
04:53PM 25 generally that topic?

04:53PM 1 A. Yes.

04:53PM 2 Q. And I think specifically Mr. Singer asked you if prior to
04:53PM 3 that interview, you called Mr. Bongiovanni up and said, hey,
04:53PM 4 do you want to sit for a voluntary interview? Do you recall
04:53PM 5 being asked that question?

04:53PM 6 A. Yes.

04:53PM 7 Q. When law enforcement is investigating a criminal target
04:53PM 8 and they're preparing to execute a search warrant, do they
04:53PM 9 tip the target of the search warrant off before they execute
04:53PM 10 it?

04:53PM 11 A. No.

04:53PM 12 Q. Why is that?

04:53PM 13 A. So that the search warrant would be a surprise in order
04:53PM 14 to preserve any evidence and prevent the destruction of it.

04:53PM 15 Q. And speaking of evidence, when law enforcement searched
04:53PM 16 this defendant's home, did they find the box containing the
04:53PM 17 Ron Serio file in his basement?

04:54PM 18 A. Yes.

04:54PM 19 Q. Is that why you didn't call him up beforehand and say,
04:54PM 20 hey, do you want to have an interview on this date?

04:54PM 21 A. Yes.

04:54PM 22 Q. I'm going to go back to the March 29, 2019 interview.
04:54PM 23 You were asked questions on cross-examination about whether
04:54PM 24 Mr. Bongiovanni, or whether you asked Mr. Bongiovanni if he
04:54PM 25 had ever seen Peter Gerace consume narcotics or whether he

04:54PM 1 had ever seen Peter Gerace with narcotics; do you recall
04:54PM 2 being asked that question?

04:54PM 3 A. Yes.

04:54PM 4 Q. Can someone consume narcotics if they don't -- if they're
04:54PM 5 not with narcotics?

04:54PM 6 A. No.

04:54PM 7 Q. Are your notes, like, a shorthand to help you remember
04:54PM 8 what someone says?

04:54PM 9 A. Yes.

04:54PM 10 Q. Did Mr. Bongiovanni say that he did not see Peter Gerace
04:55PM 11 consume narcotics?

04:55PM 12 A. To my memory, that's correct.

04:55PM 13 Q. You were also asked questions on cross-examination about
04:55PM 14 photos that Mr. Bongiovanni was in with Peter Gerace; do you
04:55PM 15 recall being asked those questions?

04:55PM 16 A. Yes.

04:55PM 17 Q. And I think specifically Mr. Singer asked you about
04:55PM 18 Government Exhibit -- I think it was 426-1, which is a 2005
04:55PM 19 aerial photograph, and 490A from 2011. Do you recall being
04:55PM 20 asked those questions?

04:55PM 21 A. The Las Vegas photograph?

04:55PM 22 Q. Yes.

04:55PM 23 A. Correct, I recall.

04:55PM 24 **MS. CHALBECK:** Ms. Champoux, can we pull up
04:55PM 25 Government Exhibit 127.

04:55PM

1 BY MS. CHALBECK:

2 Q. I think Mr. Singer was asking you about whether those
3 photographs that I just referenced were, like, far back in
4 time; do you recall being asked that?

5 A. Yes.

6 Q. Did Mr. Bongiovanni ever tell you in any of your
7 conversations with him about this photograph with him and
8 Peter Gerace from 2018?

9 A. No.

10 Q. Is 2018 closer in time to 2019 than 2011?

11 A. Yes.

12 Q. Not a lot of distance there temporally; is that fair?

13 A. Correct.

14 Q. You were also asked on cross-examination, and this was in
15 reference to Government Exhibit 310D about questions that
16 Peter Gerace would ask the defendant, and some questions that
17 the defendant would ask to Peter Gerace; do you recall being
18 asked those questions?

19 A. I'm sorry, yeah.

20 MS. CHALBECK: Ms. Champoux, can we please pull up
21 310D, as in David, and go to page 42.

22 BY MS. CHALBECK:

23 Q. Mr. Carpenter, on May 4th, 2017, do you see like an
24 incoming audio attachment?

25 A. Yes.

04:57PM

1 Q. Excuse me, an audio attachment in this?

04:57PM

2 A. I do.

04:57PM

3 **MS. CHALBECK:** Ms. Champoux, can we pull up
4 Government Exhibit 311? Can we play that, Ms. Champoux?

04:57PM

5 (Audio was played.)

04:57PM

6 **MS. CHALBECK:** Thank you, Ms. Champoux.

04:57PM

7 **BY MS. CHALBECK:**

04:57PM

8 Q. Mr. Carpenter, were you able to hear that Peter Gerace
9 asked this defendant about how law enforcement could track a
10 drug dealer's TracFone?

04:58PM

11 A. Yes.

04:58PM

12 Q. Is that an example of the kinds of questions that Peter
13 Gerace would ask him?

04:58PM

14 A. Yes.

04:58PM

15 **MS. CHALBECK:** And, Ms. Champoux, can we go back to
16 Government Exhibit 310D, to page 42 again.

04:58PM

17 Could we scroll down, maybe it's page 43.

04:58PM

18 May I have one moment, Your Honor?

04:58PM

19 **THE COURT:** Sure.

04:58PM

20 **MS. CHALBECK:** Thank you, Ms. Champoux.

04:58PM

21 **BY MS. CHALBECK:**

04:58PM

22 Q. So we zoomed into the text message from May 4, 2017. Do
23 you see a response that Mr. Bongiovanni gave to Peter Gerace
24 in answering his question?

04:59PM

25 A. I do.

04:59PM 1 Q. Please read that into the record, Mr. Carpenter.

04:59PM 2 A. Yes. But you would need a warrant to get a ping order.

04:59PM 3 Q. I think earlier you had testified that one of the objects
04:59PM 4 of the investigation was to determine if this defendant
04:59PM 5 provided Peter Gerace law-enforcement sensitive information;
04:59PM 6 is that correct?

04:59PM 7 A. Yes.

04:59PM 8 Q. Is this an example of the defendant providing Peter
04:59PM 9 Gerace law-enforcement sensitive information?

04:59PM 10 A. Yes.

04:59PM 11 **MS. CHALBECK:** Thank you, Ms. Champoux.

04:59PM 12 **BY MS. CHALBECK:**

04:59PM 13 Q. Elsewhere in Government Exhibit 310D, on
04:59PM 14 cross-examination you were asked about the gift that Peter
04:59PM 15 Gerace references in a text message; do you recall being
04:59PM 16 asked questions about that?

04:59PM 17 A. Yes.

04:59PM 18 Q. Do you have any idea what that gift is that Peter Gerace
04:59PM 19 was referencing?

05:00PM 20 A. No.

05:00PM 21 **MS. CHALBECK:** Ms. Champoux, can we please pull up
05:00PM 22 Government Exhibit 98. And can we please zoom in on the
05:00PM 23 second paragraph.

05:00PM 24 **BY MS. CHALBECK:**

05:00PM 25 Q. Mr. Carpenter, on cross-examination, you were asked

05:00PM 1 questions about what the defendant said in this memorandum
05:00PM 2 regarding his telling of a phone call he had with Peter
05:00PM 3 Gerace; do you recall being asked those questions?

05:00PM 4 A. Yes.

05:00PM 5 Q. Do you have any idea if a single word of this story is
05:00PM 6 true?

05:00PM 7 A. I do not.

05:00PM 8 Q. Pivoting back to your March 29th interview, you were
05:01PM 9 asked on cross-examination about whether you had clarified to
05:01PM 10 the defendant what you meant when you asked him if he had
05:01PM 11 ever initiated contact with Peter Gerace; do you recall being
05:01PM 12 asked that question?

05:01PM 13 A. Yes.

05:01PM 14 Q. At the time that you interviewed this defendant, did you
05:01PM 15 feel like you needed a dictionary to explain what initiated
05:01PM 16 contact meant?

05:01PM 17 A. No.

05:01PM 18 Q. You were also asked on cross-examination questions about
05:01PM 19 what you meant or what the defendant meant by close friend.
05:01PM 20 What those terms mean; do you recall being asked questions
05:02PM 21 about that?

05:02PM 22 A. Yes.

05:02PM 23 Q. And I think one of the series of questions Mr. Singer
05:02PM 24 asked you was whether someone being a suck-up to a member of
05:02PM 25 law enforcement might be a reason why that law enforcement

05:02PM 1 officer would try to keep some distance between themselves
05:02PM 2 and that other person; do you recall that?

05:02PM 3 A. Yes.

05:02PM 4 Q. Kind of in that same line of hypothetical, is complaining
05:02PM 5 about your wife consistent with close friendship?

05:02PM 6 A. I only complain about mine to close friends.

05:02PM 7 Q. Is that consistent or inconsistent with keeping someone
05:02PM 8 at an arms length?

05:02PM 9 A. I'm not sure -- I'm not sure of the --

05:02PM 10 Q. That was a badly -- a poorly-phrased question. I'll ask
05:02PM 11 again, or I'll try.

05:03PM 12 Is complaining about one's spouse consistent or
05:03PM 13 inconsistent with keeping someone at arms length?

05:03PM 14 A. That topic tends to build trust in a relationship, so
05:03PM 15 it's opposite of keeping somebody at arms length.

05:03PM 16 Q. You were also asked on cross-examination questions about
05:03PM 17 the timeline that took for your supervisor to approve the
05:03PM 18 memorandum of investigation that you authored in relation to
05:03PM 19 that March 29th interview; do you recall being asked those
05:03PM 20 questions?

05:03PM 21 A. Yes.

05:03PM 22 Q. To be clear, did you write and draft the memorandum of
05:03PM 23 investigation within a handful of days of your interview with
05:03PM 24 this defendant?

05:03PM 25 A. Yes.

05:03PM 1 Q. Okay. And it just took a while for it to be approved by
05:03PM 2 a supervisor?

05:03PM 3 A. Correct.

05:03PM 4 Q. You were also asked, I think, a series of questions about
05:04PM 5 DARTS.

05:04PM 6 A. Yes.

05:04PM 7 Q. Do you recall being asked questions about DARTS?

05:04PM 8 A. Yes.

05:04PM 9 Q. I think one of the specific questions you were asked was
05:04PM 10 whether there was any record of this defendant searching
05:04PM 11 DARTS, like, as a -- DARTS is a search engine; do you recall
05:04PM 12 being asked that?

05:04PM 13 A. Yes.

05:04PM 14 Q. Do you even know if DARTS is searchable?

05:04PM 15 A. I do not.

05:04PM 16 Q. You've never been a DEA agent, right?

05:04PM 17 A. Correct.

05:04PM 18 Q. Have you even ever used DARTS?

05:04PM 19 A. No.

05:04PM 20 Q. Who would know more about DARTS, you or Inspector Francis
05:04PM 21 DiCarlo with the DEA?

05:04PM 22 A. Mr. DiCarlo.

05:04PM 23 Q. Similarly, if the defendant had -- withdrawn.

05:05PM 24 You were asked questions on cross-examination about

05:05PM 25 whether this defendant did something specific with DARTS; do

05:05PM 1 you recall that?

05:05PM 2 A. Yes.

05:05PM 3 Q. If the defendant had intel analysts putting telephone
05:05PM 4 numbers into DARTS, and those intel analysts said putting
05:05PM 5 this telephone number in per S.A. Bongiovanni's instructions,
05:05PM 6 would you necessarily have seen that on your search?

05:05PM 7 **MR. SINGER:** Objection.

05:05PM 8 Actually, I'll withdraw it, Judge. I'm sorry.

05:05PM 9 **BY MS. CHALBECK:**

05:05PM 10 Q. You can answer the question.

05:05PM 11 A. It relates to Bongiovanni's -- the defendant's use of
05:05PM 12 DARTS? No, it would not have come up.

05:05PM 13 Q. You were also asked questions on cross-examination about
05:06PM 14 T.S.; do you recall being asked that?

05:06PM 15 A. Yes.

05:06PM 16 Q. And I think Mr. Singer showed you T.S.'s confidential
05:06PM 17 informant, like, paperwork; do you recall that?

05:06PM 18 A. Yes.

05:06PM 19 Q. And I think the case agent or the special agent who
05:06PM 20 worked with T.S. was someone by the name of Mike Hill; do you
05:06PM 21 recall that?

05:06PM 22 A. Yes.

05:06PM 23 Q. Do you know that Mike Hill worked closely with this
05:06PM 24 defendant?

05:06PM 25 A. No.

05:06PM 1 Q. You were also asked questions on cross-examination about
05:06PM 2 a memorandum that this defendant authored regarding Special
05:06PM 3 Agent Tony Casullo and his brother-in-law, Phil Domiano; do
05:07PM 4 you recall being asked those questions?

05:07PM 5 A. Yes.

05:07PM 6 Q. And I think that memorandum contained a series of
05:07PM 7 photographs about Phil Domiano and Tony Casullo; do you
05:07PM 8 recall reading that and describing it to the jury?

05:07PM 9 A. Yes.

05:07PM 10 Q. Did this defendant ever produce a memorandum containing
05:07PM 11 photographs of him and Peter Gerace?

05:07PM 12 A. No.

05:07PM 13 Q. So those three photographs that we've seen during your
05:07PM 14 testimony today, you didn't see those in a memorandum
05:07PM 15 authored by this defendant when he was talking about his
05:07PM 16 relationship with Peter Gerace?

05:07PM 17 A. Correct.

05:07PM 18 Q. Speaking of that memorandum regarding Tony Casullo, in it
05:07PM 19 the defendant denies using racial slurs; do you recall seeing
05:07PM 20 that in the memorandum?

05:08PM 21 A. Yes.

05:08PM 22 Q. Did this defendant also deny ever initiating contact with
05:08PM 23 Peter Gerace?

05:08PM 24 A. He denied ever initiating contact with Peter Gerace.

05:08PM 25 **MS. CHALBECK:** I don't have any further redirect,

05:08PM 1 Your Honor.

05:08PM 2 **THE COURT:** Anything more, Mr. Singer?

05:08PM 3

05:08PM 4 **RECROSS-EXAMINATION BY MR. SINGER:**

05:08PM 5 Q. Do you remember being asked by Ms. Chalbeck about whether
05:08PM 6 you tip off someone when you're doing a search warrant, sir?

05:08PM 7 A. Yes, sir.

05:08PM 8 Q. And the answer to that question was no?

05:08PM 9 A. Correct.

05:08PM 10 Q. But one of the things that do you after the search
05:08PM 11 warrant is you try to interview people, correct?

05:08PM 12 A. Yes.

05:08PM 13 Q. And one of the reasons why you do that is because they're
05:08PM 14 rattled, correct?

05:08PM 15 A. No, because they're there.

05:08PM 16 Q. So there's no tactic that goes into we'll open someone's
05:08PM 17 door in the middle of the morning, and then asking them to be
05:08PM 18 interviewed right after that?

05:08PM 19 A. For interview tactic? No.

05:08PM 20 Q. That's not a police tactic, sir?

05:08PM 21 A. As it relates for -- it's done, I don't know if it's an
05:09PM 22 effective one.

05:09PM 23 Q. How many police interviews have you done after a search
05:09PM 24 warrant was executed?

05:09PM 25 A. I can't recall offhand.

05:09PM 1 Q. Are we talking about five or ten? Or what do you think?

05:09PM 2 A. Probably -- probably ten. Tennish. Somewhere like that,

05:09PM 3 yes.

05:09PM 4 Q. And you've seen people after a warrant is executed in

05:09PM 5 that fashion, correct?

05:09PM 6 A. After the fashion of Mr. Bongiovanni's? No.

05:09PM 7 Q. You've never seen a warrant executed like that one?

05:09PM 8 A. No.

05:09PM 9 Q. So that was the first time you've ever seen this?

05:09PM 10 A. With -- the first time a flash bang was used, yes.

05:09PM 11 Q. And you would agree with me that Agent Ryan is an

05:09PM 12 experienced law enforcement officer, correct?

05:09PM 13 A. Yes.

05:09PM 14 Q. More experienced than you at that point in time?

05:09PM 15 A. Yes.

05:09PM 16 Q. More experience with doing interviews right after that

05:09PM 17 type of search warrant is executed?

05:09PM 18 A. I don't know how many he's done at that point after a

05:09PM 19 search warrant.

05:09PM 20 Q. But more experienced than just the one that you did that

05:09PM 21 one particular day, correct?

05:09PM 22 A. Yes.

05:09PM 23 Q. With regard to the photo number 127 that the government

05:10PM 24 asked you about --

05:10PM 25 **MR. SINGER:** Ms. Champoux, can we bring that up,

05:10PM 1 please?

05:10PM 2 **BY MR. SINGER:**

05:10PM 3 Q. Do you remember being asked about this on redirect, sir?

05:10PM 4 A. Yes.

05:10PM 5 Q. So this particular photo, Ms. Chalbeck asked you whether

05:10PM 6 or not Mr. Bongiovanni ever brought this up during the

05:10PM 7 interview, right?

05:10PM 8 A. Correct.

05:10PM 9 Q. Did you ask him any specific questions about this
05:10PM 10 particular photograph, sir?

05:10PM 11 A. No.

05:10PM 12 Q. And one of the reasons why you didn't ask any questions
05:10PM 13 about that, because this came out of his cell phone text
05:10PM 14 messages, correct?

05:10PM 15 A. I believe so, yes.

05:10PM 16 Q. Which were not in your possession back at that time in
05:10PM 17 April of 2019, correct?

05:10PM 18 A. March of 2019.

05:10PM 19 Q. March of 2019?

05:10PM 20 A. Correct.

05:10PM 21 Q. All right. That was the reason why you didn't ask him
05:10PM 22 about this particular photo, you didn't know about it,
05:10PM 23 correct?

05:10PM 24 A. Correct.

05:10PM 25 Q. But did you have any particular discussion about this one

05:10PM 1 date in June of 2018 that Mr. Bongiovanni and Mr. Gerace saw
05:10PM 2 each other?

05:10PM 3 A. Is this -- probably some context to what one this one is.
05:11PM 4 Is the lake? It was at the lake?

05:11PM 5 Q. Yes. You knew about it, correct?

05:11PM 6 A. I knew they met up at the lake, yes.

05:11PM 7 Q. And you knew about that because Government Exhibit 97,

05:11PM 8 which is the memorandum -- the first one that Mr. Bongiovanni
05:11PM 9 wrote, was right about this incident, correct?

05:11PM 10 A. Yes.

05:11PM 11 Q. He shared all the text messages about it, correct?

05:11PM 12 A. He shared text messages, correct.

05:11PM 13 **MR. SINGER:** Ms. Champoux, can we please bring this
05:11PM 14 one down, and bring up Government Exhibit 97 again.

05:11PM 15 **BY MR. SINGER:**

05:11PM 16 Q. And so the text messages that follow this one page
05:11PM 17 memorandum --

05:11PM 18 **MR. SINGER:** Start scrolling, Ms. Champoux, until we
05:11PM 19 get to page 9.

05:11PM 20 **BY MR. SINGER:**

05:11PM 21 Q. -- they talk about what leads up to this meeting between
05:11PM 22 Gerace and Bongiovanni at Sunset Bay on June 30th of 2018?

05:11PM 23 A. Yes.

05:11PM 24 Q. And it talks about what they were talking about before it
05:11PM 25 happened, correct?

05:11PM 1 A. Yes.

05:11PM 2 Q. And when we get to, you know, you reviewed all these
05:11PM 3 different messages, right?

05:11PM 4 A. Yes.

05:11PM 5 Q. And they're talking about traffic and concerts that are
05:12PM 6 going on, correct?

05:12PM 7 A. Correct.

05:12PM 8 Q. But when we get to page 9 of this particular exhibit,
05:12PM 9 Peter Gerace up at the top says I'm thinking about taking
05:12PM 10 them down, referring to the girls he's with, to RiverWorks.
05:12PM 11 Last time I was there was with you and Lindsay. Then he
05:12PM 12 states, went to the Dock of the Bay, remember that? Helped
05:12PM 13 Lindsay through the parking lot. You read that, correct?

05:12PM 14 A. Yes.

05:12PM 15 Q. And then do you see a response from Mr. Bongiovanni
05:12PM 16 saying, yes, I do. Have fun. Be safe, correct?

05:12PM 17 A. Correct.

05:12PM 18 Q. So at that point in time, Mr. Bongiovanni doesn't think
05:12PM 19 that Peter Gerace is coming, correct?

05:12PM 20 **MS. CHALBECK:** Objection.

05:12PM 21 **THE COURT:** Sustained.

05:12PM 22 **BY MR. SINGER:**

05:12PM 23 Q. Did you ask any particular questions about this one day
05:12PM 24 in the meeting that you had?

05:12PM 25 A. No.

05:12PM 1 Q. Never came up in the interview in March?

05:12PM 2 A. No.

05:12PM 3 Q. But you're aware the memorandum is written about it,
05:12PM 4 correct?

05:12PM 5 A. Correct.

05:12PM 6 Q. You could have asked?

05:12PM 7 A. I could have.

05:12PM 8 Q. But you never did?

05:12PM 9 A. Correct.

05:12PM 10 Q. And since that conversation never came up as a topic,

05:12PM 11 Mr. Bongiovanni didn't raise that with you, correct?

05:12PM 12 A. He had the opportunity to explain that when he was
05:13PM 13 explaining his friendship with him, yes.

05:13PM 14 Q. But you never asked him about that one particular day,
05:13PM 15 correct?

05:13PM 16 A. Correct.

05:13PM 17 Q. You were also asked about this one particular TracFone
05:13PM 18 and whether a warrant needs -- is needed for a ping order,
05:13PM 19 remember that?

05:13PM 20 A. Yes.

05:13PM 21 Q. And so Ms. Chalbeck phrased it as being law-enforcement
05:13PM 22 sensitive information; do you recall that, sir?

05:13PM 23 A. Yes.

05:13PM 24 Q. So, with regard to whether or not someone needs a
05:13PM 25 warrant, that's not really law-enforcement sensitive

05:13PM 1 information at all, correct?

05:13PM 2 A. The context and the methods used to obtain information is
05:13PM 3 considered law-enforcement sensitive, yes.

05:13PM 4 Q. Could Mr. Gerace go to an attorney and ask, hey, is there
05:13PM 5 a possibility that a warrant's required to get a ping order
05:13PM 6 on a phone?

05:13PM 7 A. Yes.

05:13PM 8 Q. I mean, you go to counsel inside of your office as an
05:13PM 9 investigator all the time, right --

05:13PM 10 A. Yes.

05:13PM 11 Q. -- to ask legal questions?

05:13PM 12 A. Yes, sir.

05:13PM 13 Q. Because lawyers generally have answers to questions on
05:13PM 14 legal matters, right?

05:13PM 15 A. Yes.

05:13PM 16 Q. And they generally know about the law of whether or not
05:13PM 17 the Fourth Amendment requires a warrant for particular things
05:14PM 18 to happen, correct?

05:14PM 19 A. Correct.

05:14PM 20 Q. So Mr. Gerace could have gotten the answer from a lawyer,
05:14PM 21 correct?

05:14PM 22 A. Yes.

05:14PM 23 Q. And I don't possess, as a lawyer, any type of specific
05:14PM 24 law-enforcement sensitive information, right?

05:14PM 25 A. Through your career, I assume you have.

05:14PM 1 Q. But when it comes to what the law says about warrants, I
05:14PM 2 can just look it up in a law book, right?

05:14PM 3 A. Correct.

05:14PM 4 Q. And that's not law-enforcement sensitive information if
05:14PM 5 it's published in the public, correct?

05:14PM 6 A. Correct.

05:14PM 7 Q. All right. Mr. Gerace also could have Googled that
05:14PM 8 answer, right?

05:14PM 9 A. Sure.

05:14PM 10 Q. Did you ever Google a legal question before?

05:14PM 11 A. I've Googled a lot of things, I don't know legal
05:14PM 12 questions.

05:14PM 13 Q. Did you ever see someone Google a legal question before?

05:14PM 14 A. Actually, I Googled law once. I'll take that back.

05:14PM 15 Q. Okay. So you at least try Google legal questions
05:14PM 16 sometimes yourself, correct?

05:14PM 17 A. Correct.

05:14PM 18 Q. And that's another particular place that Mr. Gerace could
05:14PM 19 have found that answer out, correct?

05:14PM 20 A. Yes.

05:14PM 21 Q. And you're a police officer, right?

05:14PM 22 A. Yes.

05:14PM 23 Q. You've been in law enforcement for several years at this
05:14PM 24 point, correct?

05:14PM 25 A. Yes.

05:14PM 1 Q. You have people who ask you legal questions as a law
05:15PM 2 enforcement officer, correct?

05:15PM 3 A. Yes.

05:15PM 4 Q. So that's not outside the ordinary, right?

05:15PM 5 A. To be asked questions, no.

05:15PM 6 **MR. SINGER:** Okay. Thank you. I have no further
05:15PM 7 questions, Judge.

05:15PM 8 **THE COURT:** Anything else?

05:15PM 9 **MS. CHALBECK:** Yes, briefly, Your Honor.

05:15PM 10

05:15PM 11 **RE-REDIRECT EXAMINATION BY MS. CHALBECK:**

05:15PM 12 Q. Mr. Carpenter, in that recording that Peter Gerace sent
05:15PM 13 to the defendant, was he asking whether warrants worked on
05:15PM 14 TracFones?

05:15PM 15 A. I believe so.

05:15PM 16 Q. That's a little bit different than the questions that
05:15PM 17 Mr. Singer was asking you just now, wouldn't you say?

05:15PM 18 A. Yes.

05:15PM 19 Q. Is the question whether warrants work on TracFones
05:15PM 20 something that's law-enforcement sensitive?

05:15PM 21 A. Yes.

05:15PM 22 Q. Finally, you were asked on recross-examination questions
05:15PM 23 about the nature of the interview on June 9th, 2019; do you
05:16PM 24 recall that?

05:16PM 25 A. Yes.

05:16PM 1 Q. When you interviewed this defendant on March 29th, 2019,
05:16PM 2 so just a few months earlier, and you told him that was
05:16PM 3 voluntary, remind the jury what he said?

05:16PM 4 A. He stated that as a law enforcement officer with 20-plus
05:16PM 5 years of experience, he knew his rights.

05:16PM 6 **MS. CHALBECK:** That's it.

05:16PM 7 **MR. SINGER:** Nothing further, Judge.

05:16PM 8 **THE COURT:** You can step down.

05:16PM 9 **THE WITNESS:** Thank you, Your Honor.

10 (Witness excused at 5:16 p.m.)

11 (Excerpt concluded at 5:16 p.m.)

12 * * * * *

13

14 **CERTIFICATE OF REPORTER**

15
16 In accordance with 28, U.S.C., 753(b), I
17 certify that these original notes are a true and correct
18 record of proceedings in the United States District Court for
19 the Western District of New York on September 23, 2024.

20

21 s/ Ann M. Sawyer
22 Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.
23
24
25

1
2 **TRANSCRIPT INDEX**
3

4 **EXCERPT - EXAMINATION OF DAVID CARPENTER**
5

6
7 **SEPTEMBER 23, 2024**

	<u>PAGE</u>
7 <u>W I T N E S S</u>	
8 <u>D A V I D C A R P E N T E R</u>	2
9 DIRECT EXAMINATION BY MS. CHALBECK:	2
10 CROSS-EXAMINATION BY MR. SINGER:	63
11 REDIRECT EXAMINATION BY MS. CHALBECK:	151
12 RECROSS-EXAMINATION BY MR. SINGER:	162
13 RE-REDIRECT EXAMINATION BY MS. CHALBECK:	170
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	